

SAN FRANCISCO PUBLIC LIBRARY



3 1223 11168 0527



*San Francisco Public Library*

Government Information Center  
San Francisco Public Library  
100 Larkin Street 5<sup>th</sup> Floor  
San Francisco, CA 94102

REFERENCE BOOK

*Not to be taken from the Library*



Digitized by the Internet Archive  
in 2015







GOVERNMENT  
DOCUMENTS DEPT

NOV 21 2013

SAN FRANCISCO  
PUBLIC LIBRARY

## **NOTICE OF CANCELLED MEETING**

**NOTICE IS HEREBY GIVEN  
DECEMBER 10, 2013 REGULAR PORT COMMISSION  
MEETING HAS BEEN CANCELLED**

**A Special Port Commission Meeting is scheduled on:**

**THURSDAY, DECEMBER 12, 2013**

**2:00 P.M. – CLOSED SESSION**

**3:15 P.M. - OPEN SESSION**

**Port Commission Hearing Room**

**Second Floor, Ferry Building**

**San Francisco, CA 94111**

**San Francisco Port Commission  
Pier 1, San Francisco, CA 94111  
(415) 274-0406**







# SAN FRANCISCO PORT COMMISSION

Doreen Woo Ho, President  
Kimberly Brandon, Vice President  
Willie Adams, Commissioner  
Leslie Katz, Commissioner  
Mel Murphy, Commissioner

Monique Moyer, Executive Director  
Phone: 415-274-0400; Fax 415-274-0412

Amy Quesada, Commission Secretary  
Phone: 415-274-0406; Fax 415-274-0412

## AGENDA SPECIAL MEETING THURSDAY, DECEMBER 12, 2013 2:15 P.M. OPEN SESSION

### PORT COMMISSION HEARING ROOM, SECOND FLOOR FERRY BUILDING, SAN FRANCISCO CA 94111

*The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Port Commission are posted on the Port's Website at [www.sfport.com](http://www.sfport.com). The agenda packet is also available at the Pier 1 Reception Desk. If any materials related to an item on this agenda have been distributed to the Port Commission after distribution of the agenda packet, those materials are available for public inspection at the Port Commission Secretary's Office located at Pier 1 during normal office hours.*

1. CALL TO ORDER / ROLL CALL
2. APPROVAL OF MINUTES – November 12, 2013
3. PLEDGE OF ALLEGIANCE
4. ANNOUNCEMENTS

GOVERNMENT  
DOCUMENTS DEPT

DEC - 9 2013

SAN FRANCISCO  
PUBLIC LIBRARY

- A. Announcement of Prohibition of Sound Producing Electronic Devices during the Meeting: Please be advised that the ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing of or use of a cell phone, pager, or other similar sound-producing electronic device.
- B. Announcement of Time Allotment for Public Comments: Please be advised that a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.



## **5. PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA**

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during Public Comment Period. A member of the public has up to three minutes to make pertinent public comments. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406. No Commission action can be taken on any matter raised during the public comment period for items not listed on the agenda other than to schedule the matter for a future agenda, refer the matter to staff for investigation or respond briefly to statements made or questions posed by members of the public. (Government Code Section 54954.2(a))

## **6. EXECUTIVE**

- A. Executive Director's Report
  - *U.S.S. Pampanito* 70<sup>th</sup> Birthday – November 1943 to November 2013
  - *SS Jeremiah O'Brien*'s 70<sup>th</sup> Birthday – November 1943 to November 2013
  - Pier 92 Grain Silo Public Art Project
  - Pier 43 Arch Reopening
  - Schedule of Port Commission Meetings for 2014 attached hereto
  - Report on Osaka Sister Port Conference – November 12-14, 2013

## **7. CONSENT**

- A. Request authorization to advertise for competitive bids for Construction Contract No. 2758, Bayview Gateway and Tulare Park Project located in the Southern Waterfront along the Islais Creek Channel between 3<sup>rd</sup> Street and Illinois Street. (Resolution No. 13-48)
- B. Request approval of the Operations Agreement with Expeditors International of Washington, Inc. ("Expeditors") granting Expeditors authority to operate its site in Brisbane, California as a Foreign Trade Zone No. 3 usage-driven site for a term of five years, with one option to extend for four years and outlining conditions for the operation of the usage-driven site. (Resolution No. 13-49)
- C. Request authorization from the Port Commission to: (1) file with the California Building Standards Commission, the Port's amendments to the 2013 California Building Standards Code and the local findings that support such modifications; (2) repeal the existing June 14, 2011 edition of the 2010 Port of San Francisco Building Code (including Green Building Standards), 2010 Port of San Francisco Mechanical Code, 2010 Port of San Francisco Electrical Code, 2010 Port of San Francisco Plumbing Code, effective midnight, December 31, 2013; and (3) adopt the 2013 Port of San Francisco Building Standards Code (which includes the 2013 Port of San Francisco Building, Mechanical, Electrical, Plumbing, and Green Building Standards Codes), with an effective date of January 1, 2014. (Resolution No. 13-50)





## **8. PLANNING AND DEVELOPMENT**

- A. Request approval to award the development opportunity described in the Request for Proposals for the Pier 38 Bulkhead Building Rehabilitation Project to TMG Pier 38 Partners, LLC and authorize staff to initiate lease negotiations for the bulkhead building rehabilitation project at Pier 38, located at Delancey Street and The Embarcadero. (Resolution No. 13-51)
- B. Informational presentation on responses to the Request for Proposals for the lease of the EcoCenter at Heron's Head Park and surrounding 6,058 square feet of non-exclusive license area, located near the intersection of Jennings Street and Cargo Way.
- C. Informational presentation on the mixed-use development project for Seawall Lot 337 and Pier 48 bounded by China Basin Channel, Third Street, Mission Rock Street, and San Francisco Bay and adjacent to AT&T Park.

## **9. REAL ESTATE**

- A. Request approval of Third Amendment to Lease No. L-15169 with Autodesk, Inc. a Delaware corporation ("Autodesk") for approximately 3,400 square feet of unimproved shed space located at Pier 9, subject to approval by the Board of Supervisors. (Resolution No. 13-52)

## **10. FINANCE AND ADMINISTRATION**

- A. Request approval of: (1) the issuance of the Port of San Francisco's Series 2014 Revenue Bonds (the "2014 Port Revenue Bonds") to fund certain capital improvements on Port property, in the aggregate principal amount not to exceed thirty million dollars (\$30,000,000) with an interest rate not to exceed twelve percent (12%) per annum; (2) the form of the Second Supplement to Indenture of Trust, between the Port and a trustee; (3) the sale of the 2014 Bonds by negotiated sale pursuant to a bond purchase contract; (4) authority to enter into contract with the underwriter team selected by the Port's Executive Director; and (5) the form of a bond purchase contract, with a not to exceed underwriter's discount and true interest cost, between the Port and the selected underwriter team. (Resolution No. 13-53)

## **11. NEW BUSINESS**

## **12. ADJOURNMENT**



**FORWARD CALENDAR  
(TARGETED COMMISSION MEETING, SUBJECT TO CHANGE)**

**JANUARY 14, 2014**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Portwide	Informational	Presentation on the Port's Climate Action Plan
2	Pier 14	Informational	Presentation on a new public art installation for the Pier 14 Plaza created by the Flaming Lotus Girls
3	Pier 70	Action	Approval of the First Amendment to the Exclusive Negotiation Agreement with Forest City Development for the Pier 70 Waterfront Site, bordered generally by 20th Street, Michigan Street, 22nd Street and the San Francisco Bay
4	Portwide	Action	Election of Port Commission Officers
5	Heron's Head Park at Cargo and Jennings Street	Action	Authorization to execute a lease for the Eco Center at Heron's Head Park and surrounding 6,058 square feet of non-exclusive license area
6	Pier 35	Action	Authorization to advertise for competitive bids for Construction, Pier 35 Building and Roof Repairs
7	SWL 322-1	Action	Approval of Memorandum of Understanding between the San Francisco Mayor's Office of Housing ("MOH") and the Port regarding the terms and conditions under which the Port will allow MOH to solicit a developer to enter into a lease with the Port for the development of Seawall Lot 322-1 with an affordable housing development
8	Portwide	Action	Request approval of the Operations Agreement with Phillips 66 Company at the Rodeo, CA Refinery granting Phillips 66 Refinery exclusive authority to operate its site in Rodeo as a Foreign Trade Zone No. 3 subzone for a term of five years, with three options to extend for five years each
9	Portwide	Action	Approval of: (1) the preliminary form of the Official Statement relating to the Bonds and the distribution of the statement; and (2) the form of the Continuing Disclosure Certificate of the Port and the execution of the certificate

**FEBRUARY 11, 2014**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Portwide	Informational	Presentation on the Port's Biennial Operating and Capital Budget for Fiscal Years 2014-15 and



			2015-16
2	Portwide	Informational	Presentation on the Port's 10-Year Capital Plan
3	Portwide	Action	Approval of the Executive Director's nomination of members of the Port Building Code Review Board
4	Pier 94 and 96	Action	Authorization to advertise for competitive bids for Construction, Pier 94-96 Storm Drain and Outfall repairs

#### FEBRUARY 25, 2014

	FACILITY/POLICY	ITEM	TITLE
1	Pier 70	Informational	Update on the Orton Development Inc.'s proposed project for the lease and rehabilitation of the 20 <sup>th</sup> Street Historic Buildings on or near 20 <sup>th</sup> and Illinois Streets at Pier 70
2	Pier 33	Informational	Presentation on the Pilot Program for the Pier 33 Retail Space
3	Portwide	Action	Approval of the Port's Biennial Operating and Capital Budget for Fiscal Years 2014-15 and 2015-16
4	Portwide	Action	Approval of the Port's 10-Year Capital Plan

#### MARCH 11, 2014

	FACILITY/POLICY	ITEM	TITLE
1	Pier 35	Action	Authorization to award Construction Contract No. XX, Pier 35 Building and Roof Repairs
2	Pier 70	Action	Approval of a lease and development agreement with Orton Development, Inc. for the 20th Street Historic Buildings at Pier 70
3	3rd Street & Cargo Way Triangle and Cargo Way	Action	Authorization to advertise for competitive bids for Construction, Quint Street Lead Improvement Project
4	Copra Loading Dock near Tulare Street	Action	Authorization to advertise for competitive bids for Construction, Copra Crane Refurbishment

#### APRIL 8, 2014

	FACILITY/POLICY	ITEM	TITLE
1	Army Street, Islais Street, and Pier 90	Action	Authorization to award Construction Contract No. 2758, Bayview Gateway & Tulare Park Projects





**MAY 13, 2014**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Pier 94 and 96	Action	Authorization to award Construction Contract No. X, Pier 94-96 Storm Drain and Outfall Repairs

**JUNE 10, 2014**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Pier 31	Action	Authorization to advertise for competitive bids for Construction, Pier 31 Building and Roof Repairs

**JULY 8, 2014**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Pier 35	Action	Authorization to advertise for competitive bids for Construction, Pier 35 Substructure Repairs

**AUGUST 12, 2014**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Pier 31	Action	Authorization to award Construction Contract No. XX, Pier 31 Building and Roof Repairs
2	3rd Street & Cargo Way Triangle and Cargo Way	Action	Authorization to award Construction Contract No. 2764, Quint Street Lead Improvement Project

**SEPTEMBER 9, 2014**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Pier 35	Action	Authorization to award Construction Contract No. XX, Pier 35 Substructure Repairs

**DATE TO BE DETERMINED**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Pier 27	Informational	Presentation on the James R. Herman Cruise Terminal Management Agreement with Metro Cruise LLC



2	Pier 27	Action	Approval of the James R. Herman Cruise Terminal Management Agreement with Metro Cruise LLC
3	South Beach	Action	Port Commission's consideration of agreements between the Port Commission and the Successor Agency to mutually terminate 13 ground leases in the South Beach project area and set business terms for the transfer of the South Beach Harbor Program
4	Pier 70	Action	Authorization to advertise for competitive bids for Construction, Crane Cove Park Project Phase 1
5	Pier 70	Action	Authorization to award Construction Contract No. 2740, Crane Cove Park Project - Phase 1



**JANUARY/FEBRUARY 2014**  
**CALENDAR OF UPCOMING PORT MEETINGS – OPEN TO THE PUBLIC**

DATE	TIME	GROUP	LOCATION
Jan. 14	2:00 PM Closed Session	Port Commission	Port Commission Hearing Room at the Ferry Building
	3:15 PM Open Session	Port Commission	Port Commission Hearing Room at the Ferry Building
Feb. 11	2:00 PM Closed Session	Port Commission	Port Commission Hearing Room at the Ferry Building
	3:15 PM Open Session	Port Commission	Port Commission Hearing Room at the Ferry Building
Feb. 25	2:00 PM Closed Session	Port Commission	Port Commission Hearing Room at the Ferry Building
	3:15 PM Open Session	Port Commission	Port Commission Hearing Room at the Ferry Building

**NOTES:**

The San Francisco Port Commission meets regularly on the second and fourth Tuesday of the month at 3:15 p.m., unless otherwise noticed. The Commission Agenda and staff reports are posted on the Port's Website @ [www.sfport.com](http://www.sfport.com). The Port Commission meetings can be viewed online at [http://sanfrancisco.granicus.com/ViewPublisher.php?view\\_id=92](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=92). The Port Commission meetings are also broadcasted on the 2nd & 4th Thursday of the month at 9 p.m. on Comcast Cable Channel 26 or Astound Cable Channel 78 (formerly RCN Cable). Contact Amy Quesada at 274-0406 or [amy.quesada@sfport.com](mailto:amy.quesada@sfport.com)

The Fisherman's Wharf Waterfront Advisory Group (FWWAG) meets regularly on a bi-monthly basis, on the third Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Rip Malloy @ 274-0267 or [rip.malloy@sfport.com](mailto:rip.malloy@sfport.com)

The Maritime Commerce Advisory Committee (MCAC) meets every other month, on the third Thursday of the month, from 11:30 a.m. to 1:00 p.m. @ Pier 1. Contact Jim Maloney @ 274-0519 or [jim.maloney@sfport.com](mailto:jim.maloney@sfport.com)

The Mission Bay Citizens Advisory Committee meets on the second Thursday of the month at 5:00 p.m. in the Creek Room at Mission Creek Senior Building located at 225 Berry Street in San Francisco (along the Promenade just beyond the library.) Contact Catherine Reilly at the former Redevelopment Agency @ 749-2516 or [catherine.reilly@sfgov.org](mailto:catherine.reilly@sfgov.org)

The Northeast Waterfront Advisory Group (NEWAG) meets regularly on a bi-monthly basis on the first Wednesday of the month from 5:00 p.m. to 7:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Jonathan Stern @ 274-0545 or [jonathan.stern@sfport.com](mailto:jonathan.stern@sfport.com)

The Central Waterfront Advisory Group (CWAG) meets monthly on an as-needed basis, generally on the third Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paetz @ 705-8674 or [mark.paetz@sfport.com](mailto:mark.paetz@sfport.com)

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or [david.beaupre@sfport.com](mailto:david.beaupre@sfport.com)

The Waterfront Design Advisory Committee (WDAC) meets jointly with the Design Review Board of the Bay Conservation and Development Commission on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. The Committee meets as needed on the fourth Monday of the month at 6:30 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625 or [dan.hodapp@sfport.com](mailto:dan.hodapp@sfport.com)



## **ACCESSIBLE MEETING INFORMATION POLICY**

### **FERRY BUILDING:**

The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots: 3 spaces in the surface lot on the west side of the Embarcadero at Washington Street.

Hourly and valet parking is available in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa. Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington, Folsom & Drumm Streets.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact Wendy Proctor, Port's ADA Coordinator, at 274-0592, the Port's TTY number is (415) 274-0587.

### **Know Your Rights Under the Sunshine Ordinance:**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Sections 67.1 et seq. of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Chris Rustom by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at [sotf@sfgov.org](mailto:sotf@sfgov.org). Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Rustom or by printing Sections 67.1 et seq. of the San Francisco Administrative Code on the Internet, at <http://www.sfgov.org/sunshine>.

## **NOTICES**

### **Prohibition of Ringing of Sound Producing Devices:**

The ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

### **Lobbyist Registration and Reporting Requirements:**

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: [www.sfgov.org/ethics](http://www.sfgov.org/ethics).







## MEMORANDUM

December 6, 2013

**TO:** MEMBERS, PORT COMMISSION  
Hon. Doreen Woo Ho, President  
Hon. Kimberly Brandon, Vice President  
Hon. Willie Adams  
Hon. Leslie Katz  
Hon. Mel Murphy

**FROM:** Monique Moyer *M. Moyer*  
Executive Director

**SUBJECT:** Request authorization to advertise for competitive bids for Construction Contract No. 2758, Bayview Gateway and Tulare Park Project

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution

---

### **Overview**

Port staff requests Port Commission authorization to advertise for competitive bids for Contract No. 2758, Bayview Gateway and Tulare Park Project. The project scope includes construction of the new Bayview Gateway public open space and improvements to the existing Tulare Park, both located adjacent to Islais Creek, between 3<sup>rd</sup> Street and Illinois Street in the southern waterfront. The Engineer's estimate including contingencies is \$3.8 million and the Project is fully funded.

### **Background**

The planned Bayview Gateway and the existing Tulare Park were identified during the Blue Greenway planning process as key open spaces along the banks of Islais Creek. The Blue Greenway is a City and County of San Francisco project to improve and expand the public open space network along the City's central and southern waterfront, from China Basin Channel to the San Francisco southern county line. When fully completed in 2045 this network will consist of 13 miles of contiguous pedestrian and biking space plus a series of parks and respite areas at which to enjoy the Bay.

In February 2008, San Francisco's voters approved the 2008 Clean and Safe Neighborhood Parks General Obligation Bond ("2008 C&S Bond"), a \$185 million bond measure which included \$22 million for Port implementation of Blue Greenway Improvements. The Blue Greenway planning process identified Bayview Gateway and Tulare Park as suitable improvements.

**THIS PRINT COVERS CALENDAR ITEM NO. 7A**



Conceptual design of both parks was completed by Port staff from the Planning Division with input from the Engineering Division. The design was vetted and refined through a community design process. Final design, engineering and preparation of construction documents were completed by the Department of Public Works with project management, review, and oversight by Port staff.

### **Project Description**

The Project includes two separate parks that have been combined together for purposes of bidding and construction as a means to lower construction cost through efficiency of marine construction within the portion of Islais Creek between the 3<sup>rd</sup> Street and Illinois Street movable bridges.

#### **Bayview Gateway (see exhibit B)**

The Bayview Gateway will be a new 1.5 acre public open space along the southern bank of Islais Creek, between 3<sup>rd</sup> Street and Illinois Street, and Cargo Way to the south. This area was reclaimed in the 1900s to create a working waterfront with timber wharf and shed buildings. The shed caught fire and was removed in the early 1980s leaving an asphalt covered lot. The wharf is now condemned and starting to collapse.

The purpose of the project is to provide public open space, improve public access along the waterfront and through the industrial area, improve the appearance of the shoreline and create a gateway to the Bayview neighborhood. This location will also serve as a transition point along the Blue Greenway providing respite for those traveling along both Cargo Way and Illinois Street and providing a viewing area for the *Bayview Rise* art project and the nearby movable bridges.

The Project includes demolition and removal of the 17,000 square-foot pile supported timber wharf, repair and modification of the seawall, construction of a new 1,000 square-foot pile supported promenade, re-grading and re-contouring the site, installation of landscaping, site paving, lighting and furnishings. Features include a waterfront promenade and plaza with seating and picnic tables, a pedestrian and bicycle path with a safe crossing of the Port's freight railroad track, a location for the Bayview Gateway Art Project at the corner of 3<sup>rd</sup> Street and Cargo Way, landscaping with native plants and trees, interpretive elements, and a small area suitable for skateboarding.

The project has a design life of 50 years and hence accommodates 50 years of projected sea level rise, to 2065, by raising grade at the water's edge to be above the current highest observed water level plus an additional 28 inches. Sea level rise is interpolated from current best guidance of 16 inches of rise at 2050 and 55 inches at 2100.

#### **Tulare Park Improvements (see exhibit C)**

Tulare Park is an existing 12,000 square foot park on the north bank of Islais Creek, between 3<sup>rd</sup> Street and Illinois Street. The park was restored in the late 1980s during construction of the Southeast Outfall Force Main, but has largely been neglected. The purpose of this project is to update the park with new plantings and paths including a new ADA compliant accessible path between 3<sup>rd</sup> and Illinois Streets. The path will include a small bridge structure extending over Islais Creek near Illinois Street. This



pathway is required to meet current ADA standards, and cannot be built on land as the San Francisco Public Utilities Commission's 55 inch force main runs directly beneath the project site. The park upgrades are required by the Bay Conservation and Development Commission (BCDC) to improve public access to the Creek, improve the shoreline appearance, increase connectivity to the Bay Trail and provide a safe access from Illinois Street to 3<sup>rd</sup> Street. The site improvements will improve safety with installation of lights, and discourage vandalism and squatters through removal of dark hidden pockets and placement of rip rap on the shore under the boardwalk. A small area (800 sq. ft.) on the eastern intertidal portion of the site will be re-vegetated with native plantings improving the shoreline habitat.

The design accommodates 50 years of projected sea level rise, to 2065, by keeping the majority of the main path and bridge deck above the current highest observed water level plus an additional 28 inches. This was not possible where the path begins at Illinois Street due to the existing grade; therefore, occasional tidal flooding is expected to begin impacting this area within 15 years, at which time, the pathway may occasionally be closed for access. Materials were chosen to withstand limited flooding without damage. Sea level rise is interpolated from current best guidance of 16 inches of rise at 2050 and 55 inches at 2100.

### **Regulatory Approvals**

At the time of advertisement for construction bids, all regulatory approvals will be secured or substantially completed. Port staff will secure final approvals prior to award of the Contract. Below is a list of major required regulatory approvals and status.

*California Environmental Quality Act (CEQA)* –The San Francisco City Planning Department approved a Final Mitigated Negative Declaration for Port 2008 Proposition A Open Space Improvements on October 30, 2009. The Bayview Gateway was specifically included in the Final Declaration. On October 9, 2013, the Planning Department issued a Note to File stating that the Tulare Park improvements are within the overall scope of the 2008 Proposition A projects and no additional environmental analysis is required under CEQA.

*Bay Conservation and Development Commission (BCDC)* - Both projects are improvements required in BCDC permits previously issued. The Bayview Gateway Project is a requirement of the America's Cup 34 Major Permit # 2012-001, dated June 12, 2012. The Tulare Park project is covered under the BCDC permit for the adjacent Illinois Street Bridge BCDC permit # 2002.003 dated February 19, 2004. Project plans have been submitted for design and engineering review and approval to BCDC.

*San Francisco Bay Regional Water Quality Control Board (RWQCB)* – A Joint Aquatic Resources Permit Application for both Bayview Gateway and Tulare Park was filed on May 14, 2013. The RWQCB has reviewed, commented and is expected to issue a 401 Water Quality Certification by the end of the year.

US Army Corps of Engineers (CORPS) - A Joint Aquatic Resources Permit Application for both Bayview Gateway and Tulare Park was filed on May 14, 2013. The CORPS





has reviewed, commented, and expects to issue a 404 permit for project approval by the end of the year.

*California Public Utilities Commission (CPUC)* – CPUC approval of the Bayview Gateway pedestrian railroad crossing is in process. A diagnostic meeting with CPUC, Union Pacific, and SF Bay Rail was held in March to determine the acceptable treatments for the crossing. Final approval is expected in spring 2014.

*Port of San Francisco* – Building Permit and Encroachment Permit are in process and expected to be secured by the end of the year.

*San Francisco Fire Department* – Fire house No. 25 is located within the Bayview Gateway area. The Project will modify the area adjacent to the building entry and parking lot. Port Staff coordinated with Fire Department personnel during design and will continue coordination during construction.

### **Compliance with San Francisco Human Rights Commission**

In the solicitation of bids for this project, Port staff will follow San Francisco Human Rights Commission (HRC) bidding procedures and requirements. The Contract Monitoring Division (CMD) established a subcontracting goal for Local Business Enterprises (LBE) of 12% in the solicitation of bids as per the following breakdown (see attached memorandum from CMD).

Minority Business Enterprise (MBE) - 4.1%

Woman Business Enterprise (WBE) - 2.6%

Other Business Enterprise (OBE) - 5.3%

Port staff considered LBE participation during the decision to combine the parks into a single construction contract. While the overall goal is unchanged for single or multiple contracts, multiple contracts do provide more opportunity for additional LBE subcontractors to participate than a single contract (possibility of separate primes with different subcontractors). However, a single contract creates subcontractor packages that are larger and a better opportunity for LBE's than the smaller packages, particularly at Tulare Park where the subcontract work is very limited. The larger subcontracts may also increase the overall value of LBE work by being more right sized, allowing competitive LBE's to get a larger piece of the overall contract.

Bids will be advertised to reach contractors through the following methods:

- Contract Monitoring Division list of contractors
- Port Internet
- Office of Contract Administration Internet Site
- San Francisco Public Library
- City and County of San Francisco purchasing internet
- Plan Rooms (Builders Exchange, Contractors Information Network, etc.) 18 total
- San Francisco Chamber of Commerce
- San Francisco African American Chamber of Commerce



- Hispanic Chamber of Commerce of San Francisco
- Chinese Chamber of Commerce, San Francisco
- Community Newspapers
  - California Newspapers Service Bureau
  - Bay Area Reporter
  - Central City Extra
  - El Mensajero
  - EL Reportero
  - Marina Times/Northside Publications
  - Potrero View
  - San Francisco Bayview
  - Sing Tao Daily
  - Small Business Exchange
  - The Western Edition
  - World Journal

### **San Francisco Local Hiring Ordinance**

The Project will comply with the City's Local Hiring Ordinance which went into effect on March 25, 2011. The mandatory participation level for this Project, which will be bid during the 3<sup>rd</sup> year of the Ordinance, is 30% of all project hours within each trade performed by local residents, with no less than 15% of all project work hours within each trade performed by disadvantaged workers.

### **Funding**

The Engineer's cost estimate and funding sources are noted below:

Project Scope	Engineer's Estimate	Funding Source 2008 Clean and Safe GO Bond	Funding Source California Resource Agency Grant
Bayview Gateway	\$2,760,000	\$2,760,000	
Tulare Park	\$ 700,000	\$ 425,000	\$275,000

Subtotal Engineer's Estimate: \$ 3,460,000

Add in 10% Contingency: \$ 346,000

Total Estimated Cost with contingency: **\$ 3,806,000**

The Project is fully funded.



### **Schedule**

The anticipated Project schedule is noted below:

Commission Approval to Advertise	December 12, 2013
Advertise for Bids	January 2014
Award of Contract	April 2014
Notice to Proceed	May 2014
Substantial Completion	December 2014
Open to Public	January 2015

### **Summary**

Port staff is prepared to seek competitive bids for this project and therefore respectfully asks the Port Commission for authorization to advertise for competitive bids for Construction Contract No. 2758, Bayview Gateway & Tulare Park Project.

This project is an example of the Port investing in improvements within the communities where it operates. The Project will be constructed in the Bayview Hunter's Point, offers economic development opportunities for the community as well as much needed open space when completed.

Prepared by: Steven Reel  
Project Manager, Engineering

David Beaupre  
Project Manager, Planning

For: Uday Prasad  
Interim Chief Harbor Engineer

### **EXHIBITS:**

Exhibit A – Vicinity Map  
Exhibit B – Site Plan, Bayview Gateway  
Exhibit C – Site Plan, Tulare Park



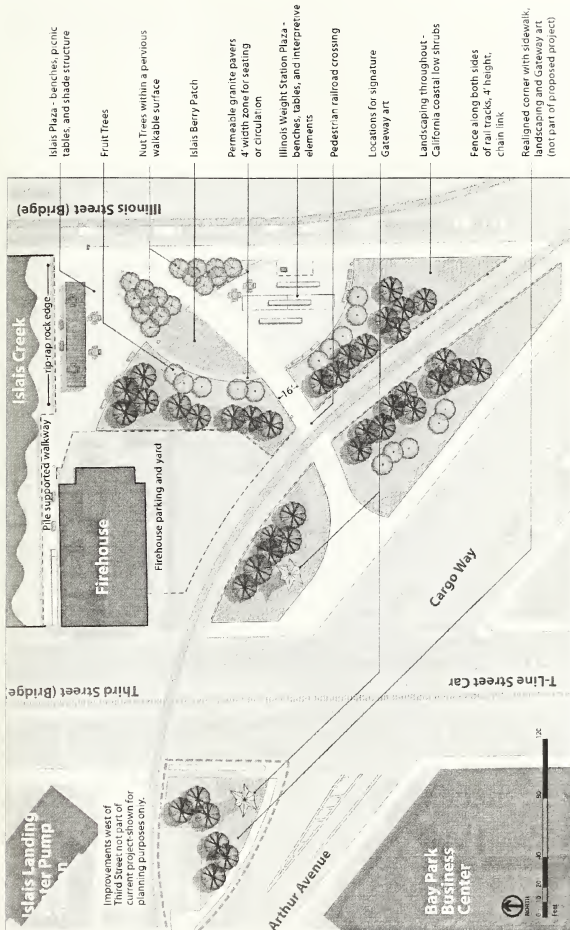
## Exhibit A – Vicinity Map







## Exhibit B – Site Plan, Bayview Gateway

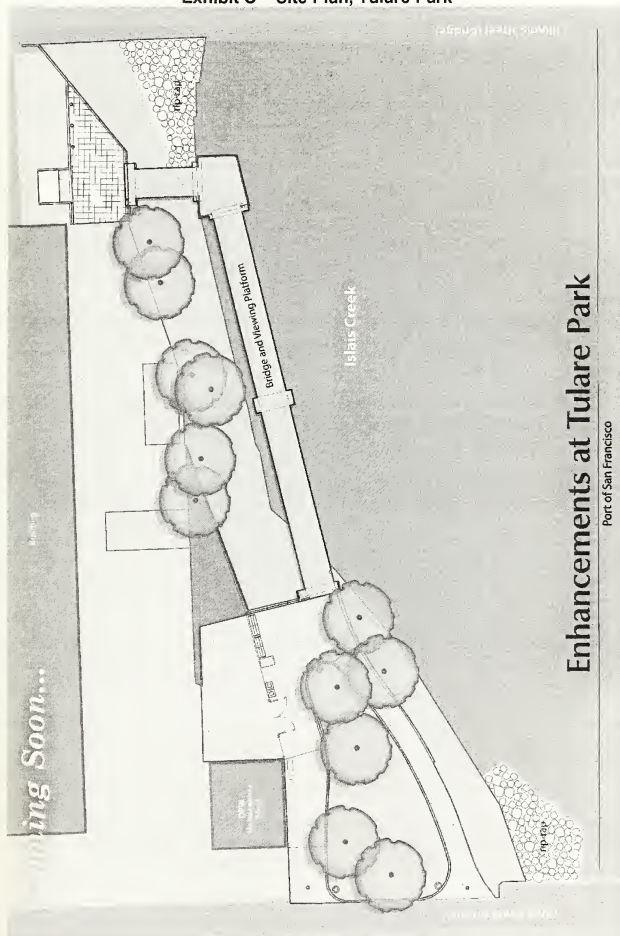


Concept Design

Bayview Gateway (located at Third and Cargo)



Exhibit C – Site Plan, Tulare Park





**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 13-48**

- WHEREAS, Port staff seeks authorization to solicit competitive bids for construction Contract No. 2758, Bayview Gateway and Tulare Park Project (the "Project"); and
- WHEREAS, the Project is located in the Southern Waterfront along both banks of Islais Creek between 3<sup>rd</sup> and Illinois Streets; and
- WHEREAS, the Project will construct the Bayview Gateway, a new 1.5 acre open space located on the south bank of Islais Creek, between 3<sup>rd</sup> Street and Illinois Street and extending to Cargo Way; and
- WHEREAS, the Project will improve Tulare Park, an existing 12,000 square foot open space located on the north bank of Islais Creek, between 3<sup>rd</sup> Street and Illinois Street; and
- WHEREAS, Port staff and the San Francisco Department of Public Works have completed design drawings and specifications for construction of the Project; and
- WHEREAS, Port staff recommends combining the two parks as one construction Project to realize savings associated with proximity and marine construction within Islais Creek; and
- WHEREAS, the engineer's construction cost estimate is \$3,460,000 (\$2,760,000 for Bayview Gateway and \$700,000 for Tulare Park) with a 10% contingency of \$346,000, for a total estimated cost of \$3,806,000; and
- WHEREAS, the estimated Project cost for Bayview Gateway, including 10% contingency, is fully funded by the 2008 Clean & Safe Neighborhood Parks Bond; and
- WHEREAS, the estimated Project cost for the improvements to Tulare Park, including 10% contingency, is fully funded by the 2008 Clean & Safe Neighborhood Parks Bond and a \$275,000 grant from the California Resources Agency, Environmental Enhancement Mitigation Funds; and
- WHEREAS, the Project received a Mitigated Negative Declaration under the California Environmental Quality Act (CEQA), and was approved by San Francisco Bay Conservation and Development Commission (BCDC); and



WHEREAS, Port staff will incorporate the subcontracting goal for Local Business Enterprises (LBE's) of 12% (Minority Business Enterprise 4.1%, Woman Business Enterprise 2.6%, Other Business Enterprise 5.3%) as recommended by the Contract Monitoring Division (CMD), in the solicitation of bids for this Project; and

WHEREAS, Port staff will incorporate the requirements of the San Francisco Local Hiring Ordinance including a third year mandatory participation level of 30% local hours for each qualifying trade, in the solicitation of bids for this Project; now, therefore be it

RESOLVED, that the Port Commission hereby authorizes Port staff to advertise for and accept competitive bids for Contract No. 2758, Bayview Gateway and Tulare Park Project.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of December 12, 2013.***

---

Secretary







## MEMORANDUM

December 6, 2013

**TO:** MEMBERS, PORT COMMISSION  
Hon. Doreen Woo Ho, President  
Hon. Kimberly Brandon, Vice President  
Hon. Willie Adams  
Hon. Leslie Katz  
Hon. Mel Murphy

**FROM:** Monique Moyer *MMoyer*  
Executive Director

**SUBJECT:** Request approval of the Operations Agreement with Expeditors International of Washington, Inc. ("Expeditors") granting Expeditors authority to operate its site in Brisbane, California as a Foreign Trade Zone No. 3 usage-driven site for a term of five years, with one option to extend for four years and outlining conditions for the operation of the usage-driven site

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution

---

### Background

In September 2012, Port staff received a request to apply to the Foreign-Trade Zones Board ("FTZ Board"), on behalf of Expeditors International of Washington, Inc. ("Expeditors"), to establish a Foreign Trade Zone (FTZ) usage-driven site ("Operator Site") at a portion of Expeditors' Brisbane, California facility. Port staff subsequently submitted an application on September 27, 2012 on behalf of Expeditors to establish this Operator Site. The FTZ Board notified the Port on November 1, 2012 through Board Administrative Action No. S-117-2012 that usage-driven site status has been approved for Expeditors' Brisbane facility.

"Usage-Driven Site" is a new term created with the implementation of the FTZ Board's Alternative Site Framework (ASF) program in 2009. The Port of San Francisco applied for its Foreign Trade Zone No. 3 ("FTZ No. 3") to participate in the ASF program in 2010 for San Francisco and San Mateo Counties and then to expand this ASF "Service Area" to five additional North and East Bay Counties in 2012. The ASF program gives FTZ Grantees like the Port of San Francisco the ability to easily bring FTZ designation to single operator/user locations within their local service area. Usage-driven sites are company-specific, and can be designated within thirty days by a simplified process

This Print Covers Calendar Item No. 7B



known as Minor Boundary Modification. The FTZ usage-driven site designation is generally limited to the space needed by the company for the FTZ activities, and in this case the Expeditors' site will be limited to a 120,000-square foot parcel of their Brisbane facility.

Expeditors will operate the usage-driven site pursuant to the proposed Operations Agreement, a copy of which is on file with the Secretary of the Port Commission ("Agreement"). The Agreement confirms that the Port of San Francisco owns the grant of authority for FTZ No. 3, and the Port is providing Expeditors authority to operate its site in Brisbane under our grant of authority as an FTZ No. 3 usage-driven site for a term of five years, with one option to extend for four years at Port's sole discretion. Expeditors assumes responsibility under the Agreement for operation and management of the usage-driven site in conformance to all FTZ Board and U.S. Customs and Border Protection (CBP) regulations and guidelines, and all other local, state and federal laws, rules, and regulations applicable to foreign trade zone and usage-driven site operations. Expeditors agrees to indemnify, protect and save harmless the Port of San Francisco and any and all of its commissions, boards, officers, Agents and employees. Failure to operate the Operator Site in accordance with these regulations will constitute a material default, which shall permit FTZ No. 3 to immediately terminate this Agreement by written notice to Expeditors. CBP is the oversight agency ultimately responsible for ensuring conformance to regulations. Representatives of FTZ No. 3, the FTZ Board, CBP, and other authorized U.S. Government officers shall have the right to enter the Operator Site to determine whether the business is being conducted in accordance with regulations and the procedures established with this Agreement.

Any operating costs or capital improvements associated with the Operator Site will be Expeditors' responsibility. No public funds will be required to fund the Operator Site project.

The Port's FTZ No. 3 Zone Schedule (tariff) provides for a \$5,000 Application Processing Fee, already received from Expeditors, which covers the Port's expenses for obtaining the necessary approvals for the Operator Site, submission of the site application to the FTZ Board and any necessary support required in the application process. The Zone Schedule also provides for a \$2,000 Activation Fee and \$14,000 Annual Fee, as adjusted periodically, which covers Port staff administrative expenses including preparation of an Annual Report to the FTZ Board summarizing FTZ No. 3 annual activities as required under FTZ Board regulations.

## **Discussion**

Foreign trade zones were established by the U.S. Congress in The Foreign-Trade Zones Act of 1934 to stimulate economic development in communities by providing businesses with economic advantages to conduct international trade activities in the United States, versus foreign locations, thus increasing the availability of local jobs and exports. In 1948, the Port of San Francisco received a FTZ Board Grant of Authority to establish, operate and maintain a foreign trade zone. In granting such a designation, the Act allows for the establishment of usage-driven sites, such as third-party logistics service providers like Expeditors.



The Foreign-Trade Zones Act provides for "...the establishment...of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the FTZ Board to grant to qualified corporations the privilege of establishing FTZ sites in or adjacent to U.S. Customs and Border Protection (CBP) ports of entry. Article VII of the Transfer Agreement and Charter Section B3.581(o) authorize the Port of San Francisco "to operate foreign trade zones within the Port area or auxiliary to the Port area, or such zones or subzones as have been operated by the San Francisco Port Authority."

The use of foreign trade zone procedures at their Brisbane facility will help Expeditors' distribution operations improve their international competitiveness by allowing the company to realize certain administrative and customs cost savings as well as take advantage of global supply chain efficiencies inherent to the FTZ admission and entry processes. Expeditors currently employs 239 individuals at its distribution operations and supports a number of local suppliers and service providers.

The Expeditors site will be the first usage-driven site established under FTZ No. 3's new Alternative Site Framework designation. FTZ activities Expeditors proposes to conduct at the usage-driven site include receiving, unpacking, repackaging, quality control inspection, and warehouse distribution related operations. The operations will not effect changes in customs tariff classification, quota category or country of origin of any merchandise admitted to the zone site.

The FTZ Board processed the Port's application, and found that the requirements of the FTZ Act and Board's regulations would be satisfied, and that the proposal would be in the public interest, and therefore granted authority for usage-driven site status through their Board Administrative Action No. S-117-2012 dated November 1, 2013 (Attachment 1).

### **Recommendation**

Staff deems it practicable to limit Port participation as Zone Grantee in the everyday operations of the Operator Site. Expeditors is the owner of the Site and will undertake the operational management of FTZ activities, on its own behalf, pursuant to the authority extended by the Zone Grantee and subject to all applicable federal, state and local regulations, statutes and ordinances. The Agreement outlines conditions for the operation of the Operator Site.

Port staff recommends that the Port Commission approve this resolution authorizing execution of the Agreement with Expeditors International of Washington, Inc. granting Expeditors authority to operate its site in Brisbane as an FTZ No. 3 usage-driven site for a term of five years, with one option to extend for four years, and outlining conditions for the operation of the usage-driven site.

Prepared by: Jim Maloney, Maritime Marketing Manager  
For: Peter Dailey, Deputy Director, Maritime

### **Attachments:**

- 1) Foreign-Trade Zones Board Administrative Action No. S-117-2012 approving usage-driven site status at the facilities of Expeditors International of Washington, Inc. in Brisbane, California



**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO  
RESOLUTION NO. 13-49**

- WHEREAS, The grant of authority for Foreign Trade Zone No. 3 ("FTZ No. 3" or the "Zone") was issued to the San Francisco Port Authority, the State of California's predecessor port agency prior to its transfer to the City and County of San Francisco, by the Foreign-Trade Zones Board ("FTZ Board") on March 10, 1948 under Board Order No. 16; and
- WHEREAS, Article VII of the Transfer Agreement and Charter Section B3.581(o) authorize the Port of San Francisco "to operate foreign trade zones within the Port area or auxiliary to the Port area, or such zones or subzones as have been operated by the San Francisco Port Authority;" and
- WHEREAS, As grantee of the FTZ No. 3, the San Francisco Port Commission ("Zone Grantee") has certain responsibilities to establish and maintain the FTZ No. 3 as stated in the FTZ Board regulations; and
- WHEREAS, The Foreign-Trade Zones Act provides for "...the establishment...of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the FTZ Board to grant to qualified corporations the privilege of establishing foreign-trade zone sites in or adjacent to U.S. Customs and Border Protection ports of entry; and
- WHEREAS, Expeditors International of Washington, Inc. (the "Usage-Driven Site Operator") desires to make use of foreign trade zone status and wishes to activate its Brisbane, California site described in its application to the FTZ Board; and
- WHEREAS, The Port of San Francisco has made application to the FTZ Board for authority to establish a usage-driven FTZ site ("Operator Site") at the Brisbane, California site (filed September 27, 2012); and
- WHEREAS, The FTZ Board found that the requirements of the FTZ Act and Board's regulations would be satisfied, and therefore granted authority for usage-driven site status through its Board Administrative Action No. S-117-2012 dated November 1, 2012; and
- WHEREAS, The Port, as Zone Grantee, deems it practicable to limit its participation in the everyday operations of the Operator Site; and
- WHEREAS, the Operator Site is an approved site of FTZ No. 3, as designated under FTZ Board Administrative Action No. S-117-2012 of November 1, 2012; and
- WHEREAS, Usage-Driven Site Operator is the owner of the Operator Site and wishes to undertake the operational management of FTZ Usage-Driven Site





activities, on its own behalf, pursuant to the authority extended by Zone Grantee; and

- WHEREAS, The Port and Usage-Driven Site Operator have negotiated an agreement granting Usage-Driven Site Operator exclusive authority to operate the Operator Site for a term of five years, with one option to extend for four years in Port's sole discretion, a copy of which is on file with the Secretary of the Port Commission (the "Agreement"); and
- WHEREAS, Under the Agreement, Usage-Driven Site Operator agrees to pay the Port as Zone Grantee a \$14,000 Annual Fee that will cover Zone Grantee expenses for oversight of the Operator Site and submission of the Annual Report summarizing FTZ No. 3 annual activities to the FTZ Board, therefore, be it
- RESOLVED, That the Port Commission hereby approves the Agreement with Expeditors International of Washington, Inc. granting Expeditors exclusive authority to operate a portion of its site in Brisbane, California as a Foreign Trade Zone No. 3 Usage-Driven Site and authorizes the Executive Director to execute the Agreement; and be it further
- RESOLVED, That the Port Commission authorizes the Executive Director to exercise the extension option in her discretion and to enter into any additions, amendments or other modifications to the Agreement that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligations or liabilities of the Port or City or materially decrease the public benefits accruing to the Port, and are necessary and advisable to complete the transaction and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of any such documents.

***I hereby certify the foregoing resolution was adopted by the Port Commission at its meeting of December 12, 2013.***

---

Secretary





NOV 01 2012

Mr. Peter Dailey  
Director of Maritime  
Port of San Francisco  
Pier 1  
San Francisco, CA 94111

S-117-2012

Dear Mr. Dailey:

This is to inform you that your request for a minor boundary modification of Foreign-Trade Zone 3, San Francisco, California, under the alternative site framework (ASF) is approved pursuant to Section 400.38 of the Foreign-Trade Zones Board's regulations.

The request involves establishing a usage-driven site for the sole use of Expeditors International of Washington, Inc. The site is located at 425 Valley Drive, Brisbane, California (0.27 acres) and will be designated as Site 5.

This change will not result in an expansion of the scope of zone activity and is consistent with the ASF zone plan approved by the Board in October 2010. This action does not imply authority for any production activity requiring advance approval by the FTZ Board.

The requested minor boundary modification is approved effective this date subject to an ASF sunset provision that would terminate authority for the site on November 30, 2015 (and again every three years thereafter) if no foreign non-duty paid merchandise is admitted to the site for a *bona fide* customs purpose during the sunset period. Further, if Expeditors International of Washington, Inc. vacates the site, the usage-driven designation will automatically self-terminate.

We have enclosed the revised site description for FTZ 3. We ask that you retain the application and approval documents in your zone file and update your zone records in accordance with the FTZ Board regulations (15 CFR Sec. 400.51).

Sincerely,

Andrew McGilvray  
Executive Secretary

Enclosure

cc: Reginald I. Manning  
Area Port Director  
U.S. Customs and Border Protection



Site Description  
Foreign-Trade Zone 3  
San Francisco, California  
S-117-2012

Site 2:

- the jet fuel storage and delivery facilities at the San Francisco International Airport;
- the Chevron jet fuel tank farm (8.5 acres), the PS Trading tank farm (1 acre) and related pipelines between the tanks farms;
- jet fuel transmission pipelines and the terminal and cargo area hydrant pipelines;
- the petroleum and jet fuel storage facilities (26 acres) at the Brisbane Terminal (owned by SFPP, L.P.), 950 Tunnel Avenue, Brisbane; and,
- the petroleum and jet fuel storage facilities (7 acres) at the Equilon Terminal (owned by Equilon Enterprises LLC), 135 North Access Road, South San Francisco, including the 4.7 mile segment of the SFPP jet fuel pipeline from the two terminals to the airport. (sunset 10/31/2013);

(The City of San Francisco owns fuel facilities at the airport and the land on which the Chevron tank farm and the PST tank farms are located (the companies own the improvements).

Site 3: (55 acres) - the petroleum facilities of Selby Terminal (owned by Shore Terminals LLC), 90 San Pablo Avenue, Crockett (Contra Costa County) (sunset 10/31/2013);

Site 4: (164 acres) - the petroleum facilities of Martinez Terminal (owned by Shore Terminals LLC), 2801 Waterfront Road, Martinez (Contra Costa County) (sunset 10/31/2013).

Site 5: (0.27 acres) - Expeditors International of Washington, Inc., 425 Valley Drive, Brisbane (San Mateo County) (sunset 11/30/2015) \*

\* indicates changes made through this action





## MEMORANDUM

December 6, 2013

**TO:** MEMBERS, PORT COMMISSION  
Hon. Doreen Woo Ho, President  
Hon. Kimberly Brandon, Vice President  
Hon. Willie Adams  
Hon. Leslie Katz  
Hon. Mel Murphy

**FROM:** Monique Moyer *M Moyer*  
Executive Director

**SUBJECT:** Requests authorization from the Port Commission to (1) file with the California Building Standards Commission, the Port's amendments to the 2013 California Building Standards Code and the local findings that support such modifications; (2) repeal the existing June 14, 2011 edition of the 2010 Port of San Francisco Building Code (including Green Building Standards), 2010 Port of San Francisco Mechanical Code, 2010 Port of San Francisco Electrical Code, 2010 Port of San Francisco Plumbing Code, effective midnight, December 31, 2013; and (3) adopt the 2013 Port of San Francisco Building Standards Code (which includes the 2013 Port of San Francisco Building, Mechanical, Electrical, Plumbing, and Green Building Standards Codes), with an effective date of January 1, 2014

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution

---

### Introduction

On November 12, 2013, the Port Acting Executive Director informed the Port Commission that the California Building Standards Commission had adopted a new 2013 edition of the California Building Standards Code ("State Code"), which will become effective on January 1, 2014. The new 2013 edition of the State Code (codified in Title 24 of the California Code of Regulations) will supersede the current 2010 edition of the State Code, and becomes the new statewide uniform building code. As a result, the current (1) June 14, 2011 edition of the 2010 Port of San Francisco Building Code (which includes Green Building Standards), (2) 2010 Port of San Francisco Mechanical Code, (3) 2010 Port of San Francisco Electrical Code, and (4) 2010 Port of San Francisco Plumbing Code (which are based upon the 2010 edition of the State Code) will become outdated and ineffective on January 1, 2014. Collectively, these are known as the 2010 Port of San Francisco Building Code.

**THIS PRINT COVERS CALENDAR ITEM NO. 7C**





The California Building Standards Law (Health and Safety Code Section 18901 and following) mandates that local municipalities apply the 2013 State Code, provided that a local jurisdiction may make modifications to the State Code and other regulations it determines are reasonably necessary because of local climatic, geological or topographical conditions as specified by Health and Safety Code Section 17958.5 and 17958.7. In order to meet this requirement, the Port staff is recommending that the Port Commission adopt the 2013 edition of the State Code with the Port's code amendments based upon local findings. This will enable the continuance of the Port's current administrative procedures, submittal requirements and appeal processes that address the Port's marine environment, facilities and maritime operations.

### **Background**

The Port of San Francisco derives its authority to regulate and permit building construction and improvements within its jurisdiction from the Burton Act (Chapter 1333 of the Statutes of 1968) and relevant sections of the Agreement Relating to Transfer of the Port of San Francisco from the State of California to the City and County of San Francisco. Port staff has established a Building Permit Group as part of the Port Engineering Division with the responsibility for enforcement, administration, and interpretation of building standards on Port property. The Port Engineering Division's Building Permit Group is considered a local building department.

The 2013 Port of San Francisco Building, Mechanical, Electrical, Plumbing, and Green Building Standards Codes (collectively referred to herein as the "2013 Port of San Francisco Building Standards Code"), contain updated administrative provisions and amendments to the minimum standards of the State Code that are specific to the Port of San Francisco. These provisions and amendments enable the Port to enforce construction standards, hear appeals, provide special design requirements for those structures and improvements in proximity to Bay waters applicable to the Port area's unique topographical and geographical conditions, and include mandatory features for construction dust control, storm water run-off, and flood plain management that protect the environment, buildings, structures, and people associated with construction activity within the Port's jurisdiction. Some additional examples of the Port specific amendments to the State Code include but are not limited to: (1) Permit Fee Schedules, (2) Definitions of the Port structures and required types of construction including Piers and Wharves, (3) Seismic upgrade trigger based on increase in occupant load associated with changes in occupancy and use, (4) Port's Unreinforced Masonry Building (UMB) Program, and (5) Egress requirements for the Port pier sheds.

The current June 14, 2011 edition of the 2010 Port Building Code, Section 1602B, requires two Unreinforced Masonry Buildings (UMBs) (Buildings 104 and 113 located at Pier 70) to be seismically retrofitted or demolished by March 30, 2014. This requirement was imposed by the Port's Unreinforced Masonry Bearing Wall Building Seismic Mitigation Program ("Port UMB Program"), adopted by the Port Commission in 2003 (Resolution No. 03-72) in response to the State of California requirements for local jurisdictions to establish mitigation programs to address UMB buildings. The City and County of San Francisco also has a similar program in place.

As the Port has secured a development partner, Orton Development, Inc. to rehabilitate these buildings, Port staff recommends extending this deadline of March 30, 2014, to



December 31, 2017, to allow time for Orton Development Inc. to seismically rehabilitate the facilities.<sup>1</sup> Exhibit A provides background on this requirement and an analysis justifying this request. Port Staff will be updating the Port Commission on a periodic basis about the status of the UMB buildings at Pier 70 and if there is any need to further extend this proposed deadline.

### **Funding**

Except for the cost associated with public notice advertisement, there are no funding requirements for publishing and adopting the 2013 Port of San Francisco Building Standards Code.

### **Schedule**

State law provides that no local modification or changes to the California Building Standards Code shall become effective until the local agency makes express findings that such modifications are reasonably necessary because of local climatic, geographical or topographical conditions, and such findings have been filed with the California Building Standards Commission (California Health and Safety Code §17958.7). Any local modifications are limited to a particular edition of the California Building Standards Code and must be filed for each new edition of the California Building Standards Code. The 2013 Port of San Francisco Building Standards Code includes modifications to the State Code that "differ," "vary," are "reasonably necessary," or "more restrictive" than the new state code based upon local conditions and findings.

Staff developed the 2013 Port of San Francisco Building Standards Code, and published a public notice in the San Francisco Examiner newspaper from November 22, 2013 through December 6, 2013, announcing the Port's intent to adopt new codes and informing the public that the draft codes were available for review and comment at the Port's webpage (<http://www.sfport.com/index.aspx?page=184>) and at the Pier 1 Permit Desk. The public was invited to comment with a deadline of 5:00 P.M., December 6, 2013. To date no public comments have been received. The San Francisco Examiner was selected for publication of this public notice based on: (1) the City's policy designating its official paper for publication as the San Francisco Chronicle newspaper for first six month of the calendar year and the San Francisco Examiner for the remainder of the calendar year; and (2) the verbiage required to appropriately advertise the 2013 Port Building Standards code far exceeded the allowed word count of 100 for free advertisement in other papers. As such, advertising in multiple newspapers would have resulted in significant additional cost to the Port. The cost for a 13-day run in the San Francisco Examiner was \$3,242.07. Finally, the California Building Standards Commission does not have any special requirement for publishing public notices regarding local jurisdiction amendments to the State Code.

Staff requests authorization from the Port Commission to (1) file with the State Building Standards Commission, the Port's amendments to the 2013 California Building Standards Code and the local findings that support such modifications; (2) repeal the existing June 14, 2011 edition of the 2010 Port of San Francisco Building Code (including Green Building Standards), 2010 Port of San Francisco Mechanical Code,

---

<sup>1</sup> The Port has approved business terms with Orton Development Inc. and will consider adoption of a development agreement and lease for the project in the Spring of 2014.



2010 Port of San Francisco Electrical Code, 2010 Port of San Francisco Plumbing Code, effective midnight, December 31, 2013; and (3) adopt the 2013 Port of San Francisco Building Standards Code (which includes the 2013 Port of San Francisco Building, Mechanical, Electrical, Plumbing, and Green Building Standards Codes), with an effective date of January 1, 2014.

Immediately upon approval by the Port Commission, Port Staff will file the Port amendments with the California Building Standards Commission by registered mail. Pursuant to California Health and Safety Code such filing must be received by the California Building Standards Commission before the effective date (i.e. January 1, 2014) of the 2013 Port Building Standards Code.

### **Summary**

Port staff seek Port Commission approval of the attached Resolution. The proposed 2013 Port of San Francisco Building Standards Code, will, upon adoption, effectively replace the 2010 Port of San Francisco Building Standards Code. The 2013 Port of San Francisco Building Standards Code will incorporate by reference the 2013 California Building Standards Code with the Port's specific amendments for administrative procedures, special design requirements, and technical aspects considered necessary for the Port's marine environment and maritime operations and will provide for green building practices that ensure sustainable construction designs having a positive environmental impact.

Furthermore, the 2013 Port Building Code will amend the Port's UMB Program (codified in Chapter 16B of the existing 2010 Port Building Code) by extending the compliance date from March 30, 2014, to December 31, 2017, applicable to Buildings 104 and 113, located at Pier 70. As explained in Exhibit A to this memorandum, this will permit the Port to continue negotiations with Orton Development Inc. as part of its current Exclusive Negotiation Agreement, for appropriate rehabilitation of these UMB buildings in accordance with the Code requirements and the approved business terms.

Prepared By: Robert LaRose  
Interim Chief Building Inspector

Peter Luong  
Associate Civil Engineer

Kathleen Diohep  
Senior Project Manager

For: Uday Prasad  
Interim Chief Harbor  
Engineer



**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 13-50**

- WHEREAS, the Port of San Francisco derives its authority to regulate and permit building construction and improvements within its jurisdiction from the Burton Act (Chapter 1333 of the Statutes of 1968) and relevant sections of the Agreement Relating to Transfer of the Port of San Francisco from the State of California to the City and County of San Francisco; and
- WHEREAS, the Port staff has established a Building Permit Group as part of the Port Engineering Division with the responsibility for enforcement, administration, and interpretation of building standards on Port property; and
- WHEREAS, the Port Engineering Division's Building Permit Group is considered a local building department; and
- WHEREAS, through Resolution 11-38, the Port Commission adopted (1) the June 14, 2011 edition of the 2010 Port of San Francisco Building Code (which includes Green Building Standards), (2) 2010 Port of San Francisco Mechanical Code, (3) 2010 Port of San Francisco Electrical Code, and (4) 2010 Port of San Francisco Plumbing Code based upon the 2010 California Building Standards Code (codified in Title 24 of the California Code of Regulations) collectively known as the 2010 Port of San Francisco Building Code; and
- WHEREAS, the California Building Standards Commission has adopted a new 2013 edition of the California Building Standards Code (2013 State Code), which takes effect on January 1, 2014; and
- WHEREAS, the California Building Standards Law (Health and Safety Code Section 18901 and following) mandates that local jurisdictions within the State apply the 2013 State Code, provided that a local jurisdiction may make modifications to the State Code and other regulations it determines are reasonably necessary because of local climatic, geological or topographical conditions as specified by Health and Safety Code Section 17958.5 and 17958.7; and
- WHEREAS, in response to that requirement, the Port engineering staff has prepared and drafted the (1) 2013 Port of San Francisco Building Code, (2) 2013 Port of San Francisco Mechanical Code, (3) 2013 Port of San Francisco Electrical Code, (4) 2013 Port of San Francisco Plumbing Code, and (5) 2013 Port of San Francisco Green Building Standards Code (also collectively referred to as the "2013 Port of San Francisco Building Standards Code"), which incorporate the 2013 State Code with the Port's code amendments that are based on the Port's local climatic, geologic or topographical conditions, and the Port's administrative structure; and





- WHEREAS, the draft 2013 Port of San Francisco Building Standards Code, based on 2013 State Code, has been published and made available for public review and comment and no public comments were received; and
- WHEREAS, by Resolution 03-72, the Port Commission established a "Port of San Francisco Unreinforced Masonry Bearing Wall Building Seismic Mitigation Program, codified in Chapter 16B of the 2010 Port Building Code, that requires seismic retrofitting or demolition of Buildings 104 and 113 (Unreinforced Masonry Buildings located at Pier 70), by March 30, 2014, and includes standards for extending that deadline; and
- WHEREAS, it is appropriate to amend Chapter 16B of the 2010 Port Building Code, to extend the deadline of March 30, 2014, to seismically retrofit or demolish Buildings 104 and 113 at Pier 70, to December 31, 2017, because measures are in place now to prohibit use of these UMB buildings and the Port has ongoing negotiations with Orton Development Inc. to rehabilitate these buildings to meet required codes through a public private partnership; and
- WHEREAS, staff now recommends that the Port Commission adopt the (1) 2013 Port of San Francisco Building Code (including amendments to Chapter 16B to extend the deadline applicable for retrofitting Buildings 104 and 113), (2) 2013 Port of San Francisco Mechanical Code, (3) 2013 Port of San Francisco Electrical Code, (4) 2013 Port of San Francisco Plumbing Code, and (5) 2013 Port of San Francisco Green Building Standards Code; and now therefore be it
- RESOLVED, that the Port Commission hereby finds that the Port's amendments and changes to the 2013 State Code, are reasonably necessary because of local climatic, geographical or topographical conditions and the Port's administrative structure and requirements; and be it further
- RESOLVED, that the Port Commission hereby adopts the (1) 2013 Port of San Francisco Building Code, (2) 2013 Port of San Francisco Mechanical Code, (3) 2013 Port of San Francisco Electrical Code, (4) 2013 Port of San Francisco Plumbing Code, and (5) 2013 Port of San Francisco Green Building Standards Code, which collectively incorporate by reference the 2013 California Building Standards Code with Port amendments based upon local climatic, geographical or topographical conditions and the Port's administrative structure and requirements; and be it further
- RESOLVED, that the Port Commission hereby authorizes and adopts the amendment to the Port of San Francisco's Unreinforced Masonry Bearing Wall Building Seismic Mitigation Program (codified in Chapter 16B of the San Francisco Building Code), thereby extending the deadline to seismically retrofit or demolish Pier 70 Buildings 104 and 113, to December 31, 2017; and be it further



RESOLVED, the Port Commission authorizes and directs staff to file the new 2013 Port of San Francisco Building Standards Code, and local findings that support the Port's modifications of the 2013 State Code based on local climatic, geologic or topographical conditions, with the California Building Standards Commission no later than December 31, 2013; and be it further

RESOLVED, that the Port Commission hereby declares that upon such filing of the (1) 2013 Port of San Francisco Building Code, (2) 2013 Port of San Francisco Mechanical Code, (3) 2013 Port of San Francisco Electrical Code, (4) 2013 Port of San Francisco Plumbing Code, and (5) 2013 Port of San Francisco Green Building Standards Code and local findings, these codes shall have an effective date of January 1, 2014, which shall supersede and repeal the (1) 2010 Port of San Francisco Building (includes Green Building Standards), (2) 2010 Port of San Francisco Mechanical, (3) 2010 Port of San Francisco Electrical, and (4) 2010 Port of San Francisco Plumbing Codes in their entirety.

*I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of December 12, 2013.*

---

SECRETARY



## EXHIBIT A

### Proposed Extension of Retrofit or Demolition Requirement for Unreinforced Masonry Buildings.

The 2010 Port Building Code includes provisions adopted in December 2003 (Resolution No. 03-72) to require seismic retrofitting or demolition of Unreinforced Masonry Buildings (UMBs) by March 30, 2014. The Port has two UMBs at Pier 70 – Building 113 and Building 104, the former Union Ironworks Machine Shop and Office Building. The proposed 2013 Port Building Code adoption includes an amendment to extend that UMB deadline to December 2017 to allow time needed for the rehabilitation.

The requirement to demolish the buildings by March 30, 2014 a provision of the Unreinforced Masonry Bearing Wall Building Seismic Mitigation Program ("Port UMB Program") to address the unsafe condition known to exist with this type of building approved by the Port Commission in December 2003. This UMB Program was adopted to comply with State regulations to provide a seismic mitigation program. The City of San Francisco (through the Department of Building Inspection) required that UMBs be demolished by March 2004 as part of its Seismic Mitigation program. In December 2003, the Port Commission adopted the Port's UMB Program to establish a separate Port UMB Program to retain the buildings and implement measures to minimize the risk of these UMB buildings.

The Port's UMB Program prioritizes the public's health and safety by minimizing public exposure to the potentially dangerous conditions known to exist with unreinforced masonry bearing wall construction. The program requires vacating, securing, barricading and monitoring these buildings. The 2010 Port Building Code requires Port staff to report on efforts to mitigate the hazardous conditions of the UMBs to the Port Commission on an annual basis. This reporting occurred through Port's master planning process for the entire Pier 70 area that commenced in 2007. The plan was identified as a necessary first step to provide a means by which, among other things, the site's UMBs and other historic resources could be listed in the National Register of Historic Places and rehabilitated through a Port development offering. The Port Commission received numerous presentations on the Pier 70 Preferred Master Plan effort since 2008 and was advised by Port staff that the plan would provide the framework through which the Port and a development partner could mitigate the structural deficiencies of the UMBs through rehabilitation.

The current UMB Program requires that if, by March 2012, or sooner, public safety cannot be maintained and no rehabilitation project is forthcoming, then the Port Commission must issue a notice of its intent to prepare an Environmental Impact Report (EIR) to demolish one or both of the buildings, as applicable. As discussed below, on February 28, 2012, the Port selected a development partner to rehabilitate the buildings, obviating the need to initiate an EIR to demolish the UMB structures. Consistent with the Port UMB Program, the 2010 Port Building Code requires that by March 30, 2014, the Port would seismically retrofit the building(s), demolish the building(s), or the Port Commission could extend the deadline for retrofit or demolition of the structures. The Port UMB Program specifies that such extension shall be considered based upon a full and balanced analysis to include: the risk to public health and safety, the exposure to



the Port of San Francisco and the community, financial hardship, UMB Annual Staff Reports, status of Development and Funding Program, and the impact to the environment.

In February 2012, the Port awarded Orton Development Inc. (ODI) the development opportunity for these buildings, following completion of the Pier 70 Master Plan and a competitive solicitation process.<sup>2</sup> The Port is currently in exclusive negotiations with ODI to rehabilitate both buildings. Late in 2012, the Port Commission and the Board of Supervisors approved the terms of the lease for the project and authorized environmental review.<sup>3</sup> This project is scheduled for approval by the Port Commission and Board of Supervisors in spring 2014. With this rehabilitation project underway, the Port staff recommends extending the deadlines for rehabilitation of the UMBs.<sup>4</sup>

The Port strictly limits access to the UMB buildings, has posted signage warning of the structural vulnerabilities and has installed fencing to protect the public should the buildings or portions thereof fail, to minimize risk to public health and safety. These requirements will be included in the ODI lease for the period prior to the rehabilitation. Port staff will require that ODI's construction comply with all required worker safety measures during the rehabilitation. The financial transaction structured with ODI includes limited Port funds, the use of the City's Seismic Safety Loan program and private sector funding to rehabilitate these buildings within the financial resources available.

While these buildings are UMBs, they are also very significant historic resources that will be listed on the National Register of Historic Places in early 2014. With the mitigation measures for public safety in place now and the project negotiations underway to rehabilitate the buildings, on balance Port Staff concludes that extending the date for rehabilitating or demolishing these buildings meets the public objectives and therefore Staff recommends the Port Commission authorize and adopt the deadline extension.

Prepared by

Kathleen Diohep  
Senior Project Manager  
Planning and Development Division

---

<sup>2</sup> The staff report supporting the selection of ODI is item 10 C on the February 28, 2012 agenda at this link

<http://sfport.com/index.aspx?page=2003>

<sup>3</sup> The term sheet was considered by the Port Commission on October 9, 2012 and is item 9B at this link. <http://sfport.com/index.aspx?page=2132> On December 4, 2012, the Board of Supervisors also endorsed the term sheet.

<sup>4</sup> On October 8, 2013, the Port Commission received an update on the project which is item 9a at this link <http://sfport.com/index.aspx?page=2339>







## MEMORANDUM

December 6, 2013

**TO:** MEMBERS, PORT COMMISSION  
Hon. Doreen Woo Ho, President  
Hon. Kimberly Brandon, Vice President  
Hon. Willie Adams  
Hon. Leslie Katz  
Hon. Mel Murphy

**FROM:** Monique Moyer *M Moyer*  
Executive Director

**SUBJECT:** Award the development opportunity described in the Request for Proposals for the Pier 38 Bulkhead Building Rehabilitation Project to TMG Pier 38 Partners, LLC and authorize staff to initiate lease negotiations for the bulkhead building rehabilitation project at Pier 38, located at Delancey Street and The Embarcadero

### DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

#### SUMMARY

On September 25, 2012, the Port Commission expressed its vision for the rehabilitation of Pier 38 and authorized staff to issue a Request for Proposals ("RFP") with the objective to quickly re-tenant the Pier 38 bulkhead building in order to quickly bring it back into economic use and provide an on-going revenue stream to the Port. The Port issued the RFP for the Pier 38 Bulkhead Building Rehabilitation Project ("Bulkhead Rehabilitation") on November 16, 2012.

On March 25, 2013 the Port received proposals from two real estate development teams: 1) San Francisco Waterfront Partners, LLC ("SFWP") and 2) TMG Pier 38 Partners, LLC, a joint venture partnership consisting of TMG Partners and Premier Structures ("TMG"). At the Port Commission's June 11, 2013 meeting, each development team presented its qualifications and visions for the Bulkhead Rehabilitation. On June 18, 2013, an evaluation panel reviewed the written proposals and interviewed the two development teams. At the Port Commission's August 13, 2013 meeting, each development team expanded upon prior presentations and presented visions for the Bulkhead Rehabilitation and potential long-term re-use project of the entire Pier 38. These presentations were not reviewed, evaluated or scored by the evaluation panel.

**THIS PRINT COVERS CALENDAR ITEM NO. 8A**



Port staff has undertaken an extensive evaluation process, including review of the evaluation panel's scoring, and considers both developer teams to be qualified to develop Pier 38. Port staff recommends TMG as the best qualified developer for the Bulkhead Rehabilitation because the TMG proposal is more responsive to the Port Commission's vision to quickly bring the bulkhead building back into use and provide substantial on-going revenue to the Port. TMG possesses significant real estate development experience and project team capability, and proposes a development program that better meets the Port's RFP objectives (see Attachment 2) for the Bulkhead Rehabilitation, particularly in providing greater on-going revenue to the Port.

## **RFP SUBMITTALS**

On September 25, 2012, Port staff received Port Commission approval to issue a RFP to quickly rehabilitate and re-tenant the Pier 38 bulkhead building and a portion of the pier shed (representing approximately one-third of the entire pier) while potentially qualifying this entity to be considered for the long-term reuse of the entire facility or the majority of the pier structure. (Attachment 1 provides further background information; Attachment 2 provides the Port's RFP project objectives for Pier 38.) The Port issued the RFP for the Bulkhead Rehabilitation on November 16, 2012. Note that this RFP did not include long-term development of the entire facility.

On March 25, 2013, the Port received real estate proposals from two development teams: SFWP and TMG, or collectively the Respondents.

Port staff engaged Bay Area Economics ("BAE"), a real estate consultant, to analyze the proposals submitted by each of the development teams and consider the real estate potential for both the Bulkhead Rehabilitation and the long-term reuse of Pier 38. BAE's analysis is shown as Attachment 6.

Port staff also assembled an evaluation panel, described below, to score each of the proposals.

### Respondents' Qualifications

#### **SFWP:**

In their written submittal, SFWP stated that it would create a development entity for the bulkhead rehabilitation that would be wholly owned by San Francisco Waterfront Partners, LLC, a Delaware limited liability company.

SFWP identified three comparable projects of similar size and scope, including a historic preservation project documented to have met Secretary of Interior's Standards. These projects are: 1) Piers 1 ½ - 5, a \$65 million historic tax credit funded rehabilitation project; 2) Pier 24 Annex rehabilitation for 28,000 square feet of gallery and warehouse space; and 3) Bay School redevelopment of a 62,000 square foot historic building in the Presidio of San Francisco, done in partnership with Equity Community Builders.



TMG:

TMG is a joint venture between TMG Partners and Premier Structures, Inc. TMG Partners, a privately-held California corporation headquartered in San Francisco, is a full-service real estate development company that exclusively focuses on Bay Area projects. The TMG team includes Amy Neches who was the Rincon Point-South Beach Area project manager for the San Francisco Redevelopment Agency and, as such, was instrumental in managing projects, including the rehabilitation of Pier 40 and construction of its harbor master's building. Premier Structures is a San Francisco local business enterprise ("LBE") whose principals are Elliot Grimshaw and Paul Osmundson who both worked for Pacific Waterfront Partners and, as such, have overlapping qualifications with respect to Piers 1 ½ - 5 and Pier 24 Annex. Mr. Osmundson is also the former Port deputy director of planning and development and the former Lend Lease project manager for the undeveloped Bryant Street Pier Project at Piers 30-32 and Seawall Lot 330.

TMG identified three comparable projects of similar size and scope: 1) The Landmark at One Market: a 444,000 square foot historic tax credit funded rehabilitation of Class A office space; 2) 680 Folsom Street, done via an Owner Participation Agreement with the San Francisco Redevelopment Agency, and currently under construction for 521,000 square feet of office space with 85% pre-leasing; and 3) 1000 Van Ness, a historic tax credit funded rehabilitation of a former Cadillac dealership into a mixed-use project with a multiplex theater, condominiums, retail and parking.

Based on information provided by each of the Respondents, Port staff judges both Respondents to be qualified to undertake the development of the Bulkhead Rehabilitation, as requested in the Port's RFP. Port staff also judge both Respondents qualified to perform any redevelopment of Pier 38 in its entirety or a substantial portion of Pier 38 ("Total Development") if the Port Commission elects to commence a more comprehensive project at a later date. However, staff's recommendation pertains solely to the Bulkhead Rehabilitation.

Based on its breadth of project development, leasing experience and project staff composition and capacity, Port staff believes that TMG is more qualified to undertake the Bulkhead Rehabilitation.

#### Development Program

The RFP requested proposals to rehabilitate and re-tenant the Pier 38 bulkhead structure and a limited portion of the Pier 38 shed (collectively, the "bulkhead building"). Both Respondents' floor plans are shown respectively as Attachments 3 & 4 and a comparison of the Respondents' development program square footages are provided as Attachment 5.

SFWP:

SFWP proposes to renovate the first floor of the bulkhead building for restaurant and café uses and the second floor for office uses. SFWP has provided a letter of interest from The Slanted Door Group for the creation of an "Asian fast food" casual café and a business plan for a San Francisco Beer Garden, both on the north side of the bulkhead



building facing the Brannan Street Wharf. For the office area, SFWP has provided a letter of interest from SOMA Central for creation of a “tech hub”. A small portion of the shed would be used for parking with up to 55 valet parking spaces. SFWP would repair the existing dock on the north side of Pier 38 near the Embarcadero to allow short-term and transient small boat berthing. SFWP would enhance the commercial spaces as well as public access by removing a portion of the ground floor office space on the south side of the structure and creating public access that would proceed through the Pier 38 shed from the Brannan Street Wharf to the Pier 38 south apron. SFWP proposes a \$10.6 million investment for the Bulkhead Rehabilitation.

#### TMG:

TMG proposes to limit initial investment to meet accessibility and code requirements in order to quickly activate the bulkhead building with new uses. The southern portion of the bulkhead building's first floor and the western portion of the second floor would be used for office space. TMG indicates that office uses would be oriented to tech and creative tenants and they have been in discussions with several of the former tenants. The northern portion of the bulkhead building's first floor would be used as an informal dining area, including an area for a revolving food truck program within the shed. TMG has been in discussions with Off the Grid food truck organization for the proposed operation. A small portion of the pier shed would include approximately 40-60 parking spaces. There would also be a maritime area which would involve reuse of a portion of the pier's north apron as a visitor-serving guest/water taxi dock. Public access would be provided through the bulkhead building to the parking area and along a portion of the north apron. TMG proposes a \$6.9 million investment for the Bulkhead Rehabilitation. Both proposals meet the design, construction and tenant program criteria in the RFP. SFWP would provide more substantial improvements and slightly more public access, but some of these improvements would need to be demolished in the event of the possible re-use of the entire or majority of Pier 38. TMG would provide less substantial improvements, but would not require demolition of any bulkhead building improvements in the event of a possible Total Development of Pier 38. Port staff believes that both Respondent's submitted a development program that met the RFP's criteria.

#### Financial Capability & Terms

Both Respondents have demonstrated that they have sufficient financial resources and ability to undertake the Bulkhead Rehabilitation. SFWP is expected to invest \$10.6 million and TMG is expected to invest \$6.9 million, respectively, to complete their proposed bulkhead building improvements.

#### SFWP:

SFWP's proposal calls for rent payment to the Port that would total \$60,000 per annum during the year-long construction period. Following construction, the base rent to the Port would be set at \$0.50 per square foot per year of occupied retail and office space (or \$12,600/year). In addition to this amount, the Port would be paid 50% of net parking receipts. There would be no rent credits for infrastructure or other improvements to the Pier 38 bulkhead building. Based on a pro forma for stabilized operations provided by SFWP, BAE has calculated, as shown in Table 1 below, the net present value of SFWP's proposal to be \$460,000 over 20 years.





TMG:

TMG would not make rent payments during the construction period. However, starting with the later of 12 months after lease commencement when occupancy is stabilized, TMG would pay the Port \$25,000/month (or \$300,000/year) in base rent with a 5% adjustment every five years. TMG proposes a rent credit for its actual hard construction costs, amortized at a negotiated rate of return, and credited against a maximum of one-half of the monthly base rent. Additional rent credits would be provided for substructure maintenance. In its cash flow model, TMG identifies a monthly rent credit of \$12,500. BAE has calculated the net present value of TMG's proposal to be \$2,240,000 over 20 years.

Both proposals meet the financial terms criteria in the RFP. TMG is more responsive to the criteria of generating revenue to the Port. SFWP proposes a substantial investment in the bulkhead building and greater public access, but offers a significantly lower rent payment to the Port. TMG offers much more rent revenue to the Port, while proposing a lower-cost, less intensive bulkhead building program.

Table 1: Proposed Bulkhead Rehabilitation Financial Terms

	<u>SF Waterfront Partners</u>	<u>TMG Pier 38 Partners</u>
<b>Capital Investment</b>	\$10.6 million	\$6.9 million
<b>Base Rent</b>	\$12,600/year	\$300,000/year
<b>Rent Adjustments</b>	None	5% every 5 years
<b>Rent Credit</b>	None	Up to 50% of base rent (maximum \$150,000 per year)
<b>Percentage Rent</b>	50% of net parking receipts	None
<b>Participation (Lease Sale/Transfer)</b>	Unspecified transfer fee	15% of net proceeds
<b>Security Deposit</b>	None	2 months base rent (\$50,000)
<b>Lease Term</b>	20 years	25 years
<b>Net Annual Rent*</b>	\$28,947	\$150,000
<b>Net Present Value**</b>	\$460,000	\$2,240,000

\*BAE calculation at Year 5

\*\*BAE calculation over a 20 year Phase 1 term that includes total payments to the Port

## RFP EVALUATION PROCESS

After the Port received proposals from SFWP and TMG, Port staff performed due diligence for these proposals as follows:



- 1) Engaged Port consultants: BAE analyzed the development programs and financial proposals (see Attachment 6); Carey and Company reviewed the proposals with respect to historic rehabilitation;
- 2) Convened an evaluation panel that reviewed the written submittals using the consultant information as a resource and scored the proposals;
- 3) Engaged the Port's finance division staff to review confidential financial statements with the principals of each of the Respondents; and
- 4) Conducted business reference reviews.

Based on the Respondents' proposals, consultants' analyses, evaluation panel scoring, the financial capability review, and business references, Port staff has formulated its analysis and recommendation, as noted on page 11 below.

## **EVALUATION PANEL**

### Membership and Procedures

The Port convened an evaluation panel on June 18, 2013 to evaluate and score the written proposals and interviews based on the evaluation criteria published in the RFP. The evaluation panel consisted of:

- Shelley Carroll – retired Nurse, UCSF and South Beach neighborhood resident
- Charles Higuera – Project Manager, Department of Public Works
- Jennifer Sobol – retired Development Project Manager, Port of San Francisco
- Anne Taupier – Project Manager, Office of Economic and Workforce Development
- Ricky Tijani – Development Project Manager, Port of San Francisco

Panel members were selected for a combined expertise in real estate, development project management and neighborhood representation.

Port staff facilitated the interview and scoring process. Staff collected solicitation participation acknowledgements from each of the evaluation panel members to ensure that the evaluation process would be confidential and that none of the members had conflicts of interest with the two Respondents. Staff outlined the evaluation process to panel members in which written proposals were discussed collectively and then scored individually. Because of confidentiality of financial documents, the evaluation panel did not review the financial capability portion of the written submittals.

Following scoring of the written proposals, the evaluation panel interviewed each of the Respondent teams based on a list of questions that had been provided in advance to both teams. After the interviews were completed, staff asked panelists to discuss and then score each Respondent. Based on the scoring sheets, staff developed the final tabulation and panel averages to determine the highest ranked Respondent.



## Evaluation Panel Scoring

The evaluation panel scored both Respondents based on their written submittals and interviews in accordance with the published RFP evaluation criteria. The scores for both Respondents are shown in the summary form below.

Table 2: Evaluation Panel Scoring of Respondents

	<u>Maximum</u>	<u>SFWP</u>	<u>TMG</u>
<u>Written Proposal</u>			
Developer Qualifications	25	24.0	22.8
Financial Capability	-	-	-
Proposed Design, Construction and Tenant Program	40	35.4	36.8
Financial Terms	<u>20</u>	<u>14.4</u>	<u>19.6</u>
<b>Subtotal</b>	<b>85</b>	<b>73.8</b>	<b>79.2</b>
<u>Interview</u>			
Developer Qualifications	25	24.8	24.8
Financial Capability	15	14.4	15.0
Proposed Design, Construction and Tenant Program	40	31.6	37.2
Financial Terms	<u>20</u>	<u>14.0</u>	<u>19.0</u>
<b>Subtotal</b>	<b>100</b>	<b>84.8</b>	<b>96.0</b>
<b>Grand Total</b>	<b>185</b>	<b>158.6</b>	<b>175.2</b>

After the evaluation panel's scores were finalized and reviewed, TMG is the higher ranking respondent for the Bulkhead Rehabilitation.

Please note the evaluation panel did not review the financial capability category for the written submittals. But, the Port's finance division reviewed the Respondents' confidential financial statements independent of the panel's evaluation.

### **SFWP:**

SFWP's funding for the Bulkhead Rehabilitation would be provided by a large pension fund. The Port's finance division concluded that such pension fund's funding obligations for the Bulkhead Rehabilitation would represent only a very small percentage of such pension fund's investment portfolio (less than 0.006% of the pension fund's portfolio of investment assets). The pension fund has more than sufficient financial resources and ability to meet its funding commitment.



**TMG:**

The Port's finance division acknowledged that TMG expects to self-generate all or substantially all of the funds needed for the Bulkhead Rehabilitation. Specifically, TMG's chairman indicated that in addition to TMG itself, some of the firm's individual partners would, most likely, provide funding for the Bulkhead Rehabilitation. Financial information on these partners, however, was not provided, so their financial capability, if any, was not considered in the financial review of TMG. The Port's finance division concludes that based on the provided financial information, TMG has sufficient financial resources and ability to meet the funding commitment envisioned.

The evaluation panel provided the following comments:

	SFWP	TMG
Strengths	<ul style="list-style-type: none"> <li>• Successful waterfront development: "excellent team experience"</li> <li>• Successful tenancing of Piers 1 ½ -5</li> <li>• Overall program meets RFP objectives</li> <li>• Good history of working with public agencies</li> <li>• Good utilization of LBE participation</li> <li>• Retail plan allows for flexibility and concepts well developed</li> <li>• Office plan allows for high-tech office users to return</li> <li>• Supplied market analysis supporting proposed tenant use</li> <li>• Likely source of equity for project</li> <li>• Strong passion for project: "this is what we do"</li> </ul>	<ul style="list-style-type: none"> <li>• Strong team and has large portfolio of large, complicated projects; takes creative approach; brought in team members that have waterfront development experience</li> <li>• Strength is their reputation; excellent track record</li> <li>• Joint venture partner is LBE</li> <li>• Demonstrated ability to attract capital, though bulkhead project will be funded internally</li> <li>• Very articulated design program that emphasizes quick tenancing turn-around</li> <li>• Demonstrates that bulkhead building improvements will not impede with possible long-term development; no tear down of bulkhead building improvements</li> <li>• Responsive to the RFP objectives; focuses on short-term remedies to get re-tenancing done and payments to the Port</li> <li>• Conscious of regulatory issues, including sea-level rise for long-term project</li> <li>• Retail plan, especially food truck program, is flexible/creative</li> <li>• Early re-tenancing program provides good immediate revenue to Port</li> </ul>
Weaknesses	<ul style="list-style-type: none"> <li>• Provided insufficient information to determine Port rent</li> <li>• Rent is very low</li> </ul>	<ul style="list-style-type: none"> <li>• Not very definitive in leasing program: "don't do letter of intent approach until deal is done"</li> </ul>





	<ul style="list-style-type: none"> <li>• Requires demolition of a portion of bulkhead project in order to accomplish re-use project</li> <li>• Closure of short-term occupancy a possible concern</li> <li>• Too much focus on long-term re-use project which is not part of this RFP</li> </ul>	<ul style="list-style-type: none"> <li>• Slightly unclear in providing market analysis support</li> <li>• Proposal for south apron fencing not appealing</li> <li>• No payment of percentage rent</li> </ul>
--	--	--

## STAFF ANALYSIS

Based on the aforementioned analysis, Port staff considers both Respondents to the RFP to be qualified to develop and undertake the Bulkhead Rehabilitation. Both Respondents have extensive experience in rehabilitation projects of similar scale and complexity and both have team members that have completed successful Port projects.

Both Respondents provide rehabilitation proposals that generally meet the goals and objectives set forth in the RFP, but with specific differences noted below:

- *On-going revenue to the Port:* TMG's lower investment in bulkhead building improvements, including a lesser amount of public access and deferral of certain repairs and improvements until there is a Total Development of Pier 38, allows it to pay considerably more rent to the Port, totaling \$1.8 million more over 20 years on a net present value basis. TMG proposed an annual rent of \$150,000 to the Port, net of rent credits. In contrast, SFWP proposed annual net rent of \$28,947.
- *Re-tenanting:* TMG and SFWP have similar approaches to re-tenant the bulkhead building. SFWP provides more specifics on its future tenants, including its discussions with SOMA Central, the former Pier 38 tech hub tenant, and a letter of interest or business plan from two restaurant operators.
- *Relationship of Bulkhead Rehabilitation improvements to long-term reuse of Pier 38:* SFWP seeks to create more extensive improvements for the Bulkhead Rehabilitation. For example, SFWP invests more into pier apron and public access improvements. TMG seeks to reduce the cost of bulkhead building improvements by deferring some costly items until there is a Total Development of Pier 38 as well as its proposal to implement a food truck program that does not require extensive bulkhead building improvements.

While both Respondents are qualified to undertake the Bulkhead Rehabilitation, both framed the Bulkhead Rehabilitation in terms of an interim use since both desire to develop Pier 38 in its entirety. SFWP's strategy is to construct more extensive improvements during the Bulkhead Rehabilitation, while TMG employs a lighter touch by investing less into the Bulkhead Rehabilitation, deferring certain improvements until there is a Total Development of Pier 38. TMG's approach enables their ability to pay significantly higher rent to the Port and provide greater flexibility for potential future re-



use. As such, TMG's approach better reflects the goals and objectives as articulated in the RFP, particularly with respect to completing design, permitting and construction more quickly and providing higher revenue to the Port. Based on its breadth of project development, leasing experience and project staff composition and capacity, TMG team has an advantage in undertaking this Bulkhead Rehabilitation.

Finally, Port staff contacted TMG's business references who uniformly endorsed TMG as a potential development partner. These references cited TMG's level of professionalism and ability to deliver an entitled project on time and on budget.

There are inherent risks that may change the economics of a waterfront development project. These include more detailed understanding of the actual conditions of the Pier 38 substructure and superstructure, regulatory approvals, and market-driven construction costs.

Port staff concurs with the evaluation panel's scoring of the Respondents. Further, Port staff recommends that the Port Commission select TMG as the successful respondent to the RFP and requests authorization from the Port Commission to enter into lease negotiations with TMG for the Bulkhead Rehabilitation.

## **POTENTIAL FOR A FUTURE TOTAL DEVELOPMENT OF PIER 38**

The RFP is intent to solicit a respondent with demonstrated experience in rehabilitating, developing, leasing, and operating projects similar to Pier 38. Additionally, one of the RFP's clear objectives was to ensure that the Bulkhead Rehabilitation "will not inhibit a long-term re-use of Pier 38 (i.e., ensure that the short-term construction and operation would not hinder possible subsequent redevelopment of the entirety or majority of Pier 38)."

The RFP did not request a Total Development proposal, but both Respondents presented an overall vision of such a project at the Port Commission hearing on August 13, 2013. Both Respondents articulated a similar conceptual development program. Both emphasized office use in the pier shed, restaurant use in the bulkhead, maritime uses on the north and south pier aprons, and public access through the pier shed. The only substantive difference is that SFWP would, as part of their bulkhead building project, invest in a seismic joint (which was not included in their written submittal and therefore not considered by the evaluation panel) along the bulkhead building. This might allow restaurant tenants to remain in place during a re-use project construction. However, if there is no Total Development project, it is unclear that there is financial justification for making this improvement.

If the Port were to initiate a Total Development of Pier 38, the Port must follow its planning guidelines under the Waterfront Land Use Plan. This would include a planning process to ensure that there is consultation with appropriate regulatory agencies in order to satisfy a trust consistent finding, maximum public access requirements, and mitigation for sea level rise. The Waterfront Land Use Plan also states that the Port must convene a community advisory group to provide input and guidance on a



development concept for a Total Development of Pier 38, including selection of a developer for such a development.

Port staff engaged BAE to provide a preliminary feasibility analysis of a future Total Development of Pier 38. BAE created a theoretical development program for the Total Development and compared it the Bulkhead Rehabilitation. BAE demonstrated that a Total Development would likely yield higher sub-tenant rents to the developer since a complete pier development would include higher finishes, better floor functionality, etc., that would be commensurate with other waterfront developments, such as Pier 1, Piers 1 ½ -5 and the Ferry Building.

As shown in Attachment 7, for the Bulkhead Rehabilitation, BAE projected office space rents of \$50 - \$55 per square foot per year should be achieved, while a Total Development might attract rents as high as \$70 per square foot per year. BAE projected Bulkhead Rehabilitation retail space of at least \$48 per square foot NNN per year, while Total Development might attract rents of \$60 per square foot NNN per year.

BAE calculated the costs of improvements with the projected revenue stream for a potential Total Development of Pier 38. Assuming development of Pier 38 in its entirety, BAE projects a positive residual value of \$15.4 million, assuming capitalized value of \$135.7 million and development costs of \$120.2 million. If a marina component is needed for public trust consistency, BAE projects a positive, yet slightly lower, residual value of \$12.3 million, assuming a capitalized value of \$138.5 million and development costs of \$126.2 million.

BAE's preliminary analysis shows that a future Total Development of Pier 38 may theoretically be feasible. If directed by the Port Commission, staff could at a later point initiate a planning process that would engage regulatory agencies in determining feasibility and create a local community advisory group to provide input and guidance to the Port Commission. The Port Commission would also need to direct Port staff on how it intends to select a developer for this separate project. As noted, staff considers both Respondents to be qualified to undertake the potential Total Development. However, staff's recommendation hereunder is solely for the Bulkhead Rehabilitation. Staff also understands that the Port Commission has the absolute right to issue a request for proposals, request for qualifications, initiate any other solicitation process or not initiate a selection process, to select a developer of a Total Development opportunity, if at all. A potential timeline for Total Development is shown as Attachment 8.

## **RECOMMENDATION**

Port staff recommends that the Port Commission award the Bulkhead Rehabilitation development opportunity as described in the RFP to TMG. Staff further recommends that the Port Commission authorize staff to initiate lease negotiations with TMG for the Bulkhead Rehabilitation. The Port Commission has an option to direct staff into entering into an exclusive negotiations agreement with TMG. However, since the goal is to rehabilitate and re-tenant the bulkhead building on an interim lease basis only, staff does not believe this is necessary since it would potentially delay project completion.



Once the lease negotiation is completed, the terms of the proposed lease will be presented to the Port Commission for its review and consideration.

## NEXT STEPS

Port staff envisions a preliminary Bulkhead Rehabilitation project schedule with the selected developer that would include:

- |   |             |
|---|-------------|
| • Port Commission lease approval (6-7 months):      | Summer 2014 |
| • Completion of design and permitting (4-6 months): | Winter 2014 |
| • Completion of construction (7-8 months):          | Fall 2015   |
| • Tenant Occupancy (3 months):                      | Early 2016  |

Prepared by: John Doll, Project Manager  
Planning & Development

For: Byron Rhett, Deputy Director  
Planning & Development

### Attachments:

- 1 – Background Information
- 2 – RFP Project Objectives
- 3 – TMG Bulkhead Building Floor Plan
- 4 – SFWP Bulkhead Building Floor Plan
- 5 – Summary of Development Programs for Bulkhead Building
- 6 – BAE Memorandum: Pier 38 Developer Submittal Evaluation
- 7 – BAE Memorandum: Pier 38 Financial Feasibility Scenarios
- 8 – Future Total Development: Next Steps





**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 13-51**

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, regulate and control the lands within Port jurisdiction; and
- WHEREAS, The Port owns in trust the Pier 38 site, consisting of approximately 68,000 square feet of shed space, 28,000 square feet of apron space, 7,800 square feet of bulkhead office space, and 180,000 square feet of water space, located at Delancey Street and The Embarcadero in the South Beach Harbor Mixed Use Opportunity Area of the South Beach/China Basin Waterfront area of the Waterfront Land Use Plan ("Waterfront Plan") adopted by the Port Commission; and
- WHEREAS, On September 25, 2012, the Port Commission, by Resolution 12-74, authorized Port staff to issue a request for proposals ("RFP") for the lease of the Pier 38 bulkhead building and a portion of the shed (collectively, the "bulkhead building"), and manage the solicitation process consistent with the goals and objectives and the selection process as described in the staff report which accompanied that resolution; and
- WHEREAS, On November 16, 2012, the Port issued an RFP for the Pier 38 Bulkhead Rehabilitation Project (the "Bulkhead Rehabilitation"); and
- WHEREAS, TMG Pier 38 Partners LLC ("TMG") and a team led by San Francisco Waterfront Partners, LLC ("SFWP") submitted timely responses to the RFP and both respondents were found by Port staff to be qualified and their submittals responsive to the RFP requirements; and
- WHEREAS, Port staff convened an evaluation review panel of five persons with combined expertise in real estate, development project management and neighborhood representation to review the responses against the objectives and evaluation criteria set forth in the RFP; and
- WHEREAS, The evaluation panel scored TMG as the higher ranking respondent for the Bulkhead Rehabilitation; and
- WHEREAS, The Port Commission has evaluated the scores of the evaluation panel and reviewed the Port staff analysis and has determined that the TMG proposal for the Bulkhead Rehabilitation is more responsive to the requirements of the RFP; and



- WHEREAS, If the Port Commission elects to proceed with a complete redevelopment of Pier 38 in the future ("Total Development"), the Waterfront Land Use Plan states that the Port must initiate a planning process for a Total Development of Pier 38 that would engage regulatory agencies in determining feasibility and create a local community advisory group to provide input and guidance to the Port Commission; and
- WHEREAS, Port staff has determined that both respondents are qualified to undertake the Pier 38 Bulkhead Rehabilitation and the Total Development; now therefore be it
- RESOLVED, That both TMG and SFWP are deemed qualified to undertake the Pier 38 Bulkhead Rehabilitation; and be it further
- RESOLVED, Based on the evaluation panel's scores and Port staff analyses, the Port Commission determines that TMG's proposal for the Bulkhead Rehabilitation is more responsive to the requirements of the RFP; and be it further
- RESOLVED, The Port Commission hereby awards to TMG the Bulkhead Rehabilitation opportunity described in the RFP and directs Port staff to negotiate the terms of a lease for the Bulkhead Rehabilitation on terms that do not materially decrease the benefits or otherwise materially increase the obligations or liabilities of the City or Port from the terms proposed by TMG and as described in the staff report accompanying this resolution; and be it further
- RESOLVED, That the Port Commission reserves the right, if negotiations with TMG are unsuccessful or the parties are unable to obtain approval of a lease from the Port Commission, and if necessary, the Board of Supervisors, to undertake other efforts including, but not limited to, determining no Pier 38 Bulkhead Rehabilitation will be pursued or negotiating with SFWP, the next highest scoring respondent to the RFP, at the Port's sole discretion; and be it further
- RESOLVED, That the direction to staff to negotiate a lease does not commit the Port Commission to approve the terms of the lease or any specific development concept or project proposal, nor will the lease or the project review process it establishes foreclose the possibility of alternative development concepts or deciding not to grant entitlement or approve the lease of the Pier 38 bulkhead building site; and be it further
- RESOLVED, That entering into lease negotiations does not commit the Port Commission to approval of a final lease or related documents and that the Port Commission shall not take any discretionary actions



committing it to the Bulkhead Rehabilitation until it has reviewed and considered environmental documentation prepared in compliance with the California Environmental Quality Act ("CEQA"); and be it further

RESOLVED, That the Port Commission will not take action on a comprehensive re-use project of Pier 38 until staff initiates a planning process for a Total Development of Pier 38 that would engage regulatory agencies in determining feasibility and create a local community advisory group to provide input and guidance to the Port Commission; and be it further

RESOLVED, That the Port Commission reserves the right in its sole and absolute discretion to issue a new request for proposals, request for qualifications, initiate any other solicitation process, or not initiate a selection process, to select a developer for a Total Development of Pier 38.

***I hereby certify that the Port Commission at its meeting of December 12, 2013 adopted the foregoing Resolution.***

---

Secretary



## Attachment 1 – Background Information

Recent Port Commission staff reports provide Pier 38 background information:

- **Pier 38 Closure:** Port staff reported on the background regarding the eviction proceedings and site conditions that led to closure of Pier 38 in October 2011.<sup>1</sup> In brief, on August 1, 2011, the Port took possession of Pier 38 from the Pier 38 Maritime Recreation Center and Carl Ernst. On September 2, 2011, the Port's Chief Harbor Engineer declared Pier 38 shed, office spaces, and north apron deck unsuitable for any occupancy due to existing health and safety violations. Occupants were asked to vacate the premises on September 30, 2011. By October 20, 2011, all occupants housed in the Pier 38 bulkhead building and pier shed were vacated.
- **Pier 38 Reuse Options:** In January 2012, Port staff reported on building occupancy options to bring Pier 38 into Code Compliance.<sup>2</sup>
- **Pier 38 Solicitation Options:** On September 11, 2012, Port staff reported on the trade-offs between soliciting a development entity to rehabilitate and re-tenant the Pier 38 bulkhead building only versus an entity to redevelop the entire Pier 38 facility.<sup>3</sup>
- **Port 38 Solicitation Approval:** On September 25, 2013, Port staff received approval to issue a request for proposals for the Pier 38 bulkhead building and limited pier shed improvements for re-occupancy while qualifying this entity to consider the long-term reuse of the entire facility or the majority of the pier structure.<sup>4</sup> The request for proposals was issued on November 16, 2012. Responses were received on March 25, 2013.
- **Port 38 RFP Respondents' Presentations:** On June 11, 2013, the respondents to the request for proposals presented their qualifications and visions for the Pier 38 bulkhead building rehabilitation.<sup>5</sup> This was followed by a second round of developer presentations made on August 13, 2013.<sup>6</sup>

---

<sup>1</sup> <http://www.sfport.com/modules/showdocument.aspx?documentid=2403>

<sup>2</sup> <http://www.sfport.com/modules/showdocument.aspx?documentid=3231>

<sup>3</sup> <http://www.sfport.com/modules/showdocument.aspx?documentid=4638>

<sup>4</sup> <http://www.sfport.com/modules/showdocument.aspx?documentid=4720>

<sup>5</sup> <http://www.sfport.com/modules/showdocument.aspx?documentid=6313>

<sup>6</sup> <http://www.sfport.com/modules/showdocument.aspx?documentid=6568>





## Attachment 2 – RFP Project Objectives

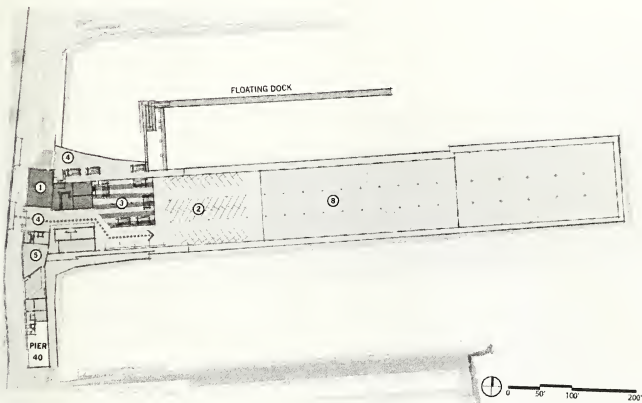
The request for proposals specifically included these project objectives:

- Repair the Pier 38 bulkhead building which may include: remedy structural deficiencies, replace or repair mechanical, electrical and plumbing systems, and construct any other improvements, including egress and ADA, needed to meet the City's building code requirements as well as other regulatory requirements, including consistency with the Secretary Standards.
- Develop the most effective implementation strategy to quickly re-tenant the Pier 38 bulkhead building in order to achieve the Port's goal of bringing it back into economic use and provide an on-going revenue stream to the Port.
- Encourage the re-tenanting of the Pier 38 bulkhead building to include: office, high technology uses, visitor-serving commercial, entertainment and cultural uses, and, maritime uses that complement adjacent waterfront development.
- Continue the redevelopment of the South Beach waterfront from the Bay Bridge to AT&T Ballpark, by reviving this historic structure, and helping knit Pier 38 into the South Beach neighborhood by bringing people and business activity to the waterfront.
- Demonstrate how the short-term Pier 38 bulkhead building rehabilitation will not inhibit a long-term reuse of Pier 38 (i.e., ensure that the short-term construction and operation would not hinder possible subsequent redevelopment of the entirety or majority of Pier 38).
- Develop a plan to improve the physical appearance of the bulkhead building and pier shed.
- Require that any adaptive reuse will be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties.
- Require a sustainable development program that minimizes the reliance on private automobiles, uses energy efficiently and, as possible, includes alternative energy sources that comply with the City's Green Building Standards.
- Secure private financial investment to rehabilitate and revive the Pier 38 bulkhead building in the near term.
- Provide business and employment opportunities for local workers and businesses during the design, construction and operation phases of the Pier 38 bulkhead building.
- Provide security for the entire Pier 38.

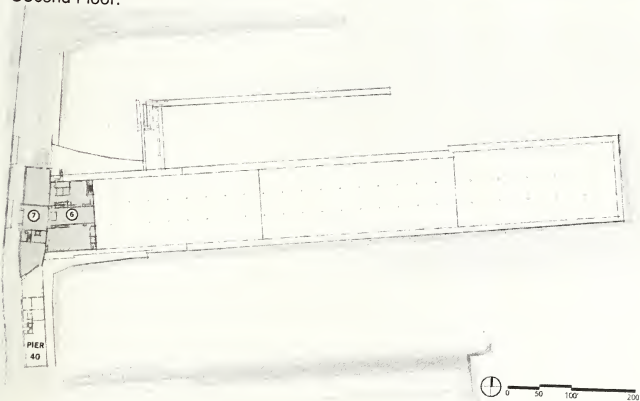


### Attachment 3 -- TMG Bulkhead Building Floor Plan

Ground Floor:

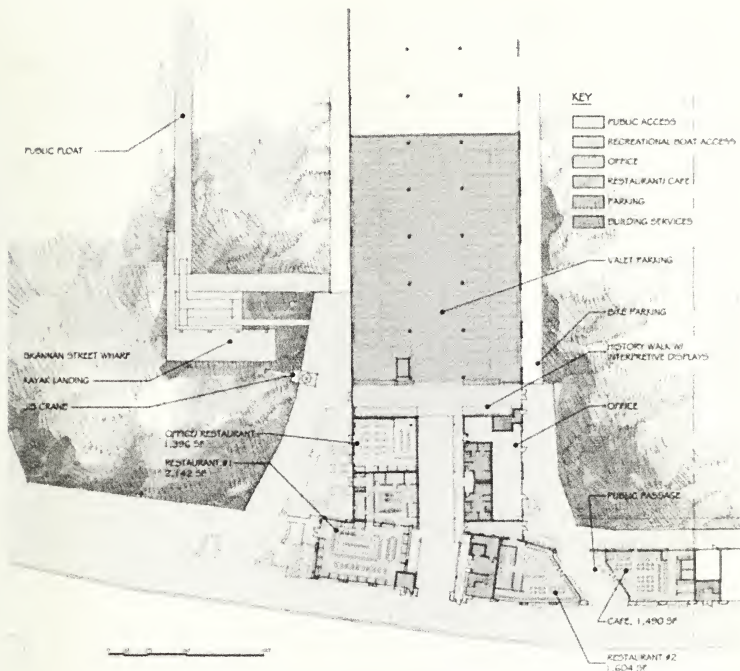


Second Floor:





# Attachment 4 – SFWP Bulkhead Building Floor Plan





## Attachment 5 -- Summary of Bulkhead Building Development Programs

	SFWP	TMG
<b>Occupied Areas:</b>		
Office	19,540	19,515
Retail/Restaurant (a)	<u>8,325</u>	<u>6,800</u>
<b>Subtotal</b>	<b>27,865</b>	<b>26,313</b>
<b>Other Areas:</b>		
Parking	18,843	22,400
Maritime (approx.)	6,000	2,400
Public Access (b)	<u>15,868</u>	<u>15,400</u>
<b>Total Square Feet:</b>	<b>68,576</b>	<b>66,515</b>

a) SFWP assumes 1st floor shown as office/ restaurant is leased to restaurant or retail use. TMG proposal is for informal dining area serving food truck patrons.

b) TMG public access includes 6,000 sq. ft. for food truck parking + entry area to food truck parking area.









# bae urban economics

## MEMORANDUM

**TO:** John Doll, Project Manager, Port of San Francisco  
**FROM:** Janet Smith-Heimer, Managing Principal, BAE  
Ron Golem, Principal, BAE  
**RE:** Evaluation of Developer Proposals for Pier 38 Phase 1 Bulkhead Renovation  
**DATE:** June 13, 2013

---

### Purpose

This memorandum presents an analysis of the two submittals received by the Port in response to its Pier 38 RFP. Submittals were received from SF Waterfront Partners, LLC, and TMG Pier 38 Partners, LLC. The analysis contained in this memorandum is limited to proposals for rehabilitation and re-tenanting of the Pier 38 Bulkhead building (also referred to as Phase 1 in this memorandum), and does not evaluate additional concepts and information presented by the two submitters for a second phase to redevelop all of Pier 38 (Phase 2), per the RFP.

This memorandum is organized pursuant to the RFP's Minimum Qualifications and Evaluation Criteria, including as follows:

- The development entities submitting proposals and their qualifications and experience;
- The proposed Rehabilitation Concept and its design, construction and tenant program relative to the RFP's Development Objectives and other RFP criteria (except as noted below); and
- The proposed financial terms and projected rent payments to the Port.

A separate report will be submitted by Carey & Company, a historic architecture firm as subconsultant to BAE, regarding the submitters' design and construction plans and their consistency with City of San Francisco codes and the Secretary of the Interior's Standards for Rehabilitation (Secretary's Standards, RFP Evaluation Criterion 3b). In addition, Port finance staff will separately prepare an analysis of the submitters' financial capability (RFP Evaluation Criterion 2).

Attached to this memorandum is a Summary Chart that provides more details on the each submitter's team, development concept, and information regarding each criteria evaluated by BAE, including Development Objectives. Again, the approach taken by BAE, at the direction of the Port, was to evaluate the submittals only for the Bulkhead renovation (e.g., Phase 1) and not to evaluate information provided in each proposal for Phase 2 (shed renovation).

San Francisco  
1285 66<sup>th</sup> Street  
Second Floor  
Emeryville, CA 94608  
510.547.9380

Sacramento  
803 2<sup>nd</sup> Street  
Suite A  
Davis, CA 95616  
530.750.2195

Los Angeles  
5405 Wilshire Blvd.  
Suite 291  
Los Angeles, CA 90036  
213.471.2666

Washington DC  
1436 U Street NW  
Suite 403  
Washington, DC 20009  
202.588.8945

New York City  
121 West 27<sup>th</sup> Street  
Suite 705  
New York, NY 10001  
212.683.4486



## Overview of Development Teams

Each of the submitters proposes to create a new Limited Liability Company (LLC) to enter into an agreement with the Port. The following section describes the composition of the proposed LLC. Each team also identifies its architectural, engineering, and other professional services (e.g. legal) team; SF Waterfront Partners, LLC identified 12 firms as part of its team, while TMG Pier 38 Partners, LLC. Identified six firms with more to be added.

### ***SF Waterfront Partners III, LLC***

San Francisco Waterfront Partners III, LLC is a to-be-formed entity that will be wholly owned by San Francisco Waterfront Partners, LLC, (SFWP), a Delaware corporation. SFWP's Managing Member is Pacific Waterfront Partners, LLC (PWP), with 1% ownership, and the California State Teachers Retirement System (CalSTRS) with 99% ownership.

PWP is 75% owned by Simon W.R. Snellgrove, and 25% owned by Alicia Esterkamp Albin.

### ***TMG Pier 38 Partners, LLC***

TMG Pier 38 Partners, LLC (TMG Pier 38 Partners), is a joint venture between TMG Partners and Premier Structures, Inc. Premier Structures is a San Francisco LBE whose Principals are Elliott Grimshaw and Paul Osmundson) along with other unidentified equity investors. Premier Structures' percentage of equity interest in the joint venture is yet to be negotiated.

It should be noted that Premier Structures' two principals – Elliott Grimshaw and Paul Osmundson – were formerly employed by Pacific Waterfront Partners or subsidiaries, and as such, have overlapping qualifications with respect to completion of Piers 1 ½ - 5.

## Satisfaction of Minimum Qualifications Criteria

The RFP sets forth three minimum qualifications that a submitter must meet in order for its proposal to be deemed responsive for consideration of its Rehabilitation Concept: (1) a minimum of 10 years' experience in commercial real estate development; (2) successful completion of at least three real estate development projects of similar size and scope to the project proposed, at least one of which must be a historic preservation project documented to have met with Secretary Standards; and (3) superior credit history and demonstrated ability to finance the project proposed on commercially reasonable terms from equity or debt from bona fide financial institutions.

Both of the submitters have provided information to demonstrate that they meet the first two minimum qualifications. The member entities of both submitters have more than 10 years of experience in commercial real estate development. Port finance staff will separately address the third minimum criterion regarding credit history and demonstrated ability to finance the proposed project.



### ***SF Waterfront Partners***

SF Waterfront Partners identified four projects of similar size and scope, including a historic preservation project documented to have met the Secretary's Standards. These projects are: Piers 1½-5, a \$65 million historic tax credit funded rehabilitation project (most similar in size and complexity to Pier 38); **8 Washington**, a mixed-use development with 134 residential units and 20,000 square feet of commercial space, along with public space and parking scheduled to start construction in 2014; **Pier 24 Annex** rehabilitation for 28,000 square feet of gallery and warehouse space; and **Bay School** redevelopment of a 62,000 square foot building in the Presidio of San Francisco (done by the Principals of PWP with another partner, Equity Community Builders).

### ***TMG Pier 38 Partners***

TMG Pier 38 Partners identified three projects of similar size and scope: **The Landmark at One Market**, a 444,000 square foot historic tax credit funded rehabilitation of Class A office space; **680 Folsom Street**, done via an Owner Participation Agreement with the San Francisco Redevelopment Agency, and currently under construction for 521,000 square feet of office space with 85 percent pre-leasing; and **1000 Van Ness**, a historic tax credit funded rehabilitation of a former Cadillac dealership into a mixed-use project with a multiplex theater, condominiums, retail, and parking (most similar in size and complexity to Pier 38).

## **Submittal Information Provided Relative to Evaluation Criteria**

This section summarizes the information submitted by each team for the following Evaluation Criteria in the RFP. The actual scoring of the submittals will be done by the Port's Pier 38 Evaluation Panel, based on the points allocated to each criterion. More detail on the submitted information for each criterion and its subcriteria is contained in the Appendix to this memorandum.

### ***Evaluation Criterion 1: Developer Qualifications (25 points)***

As set forth in the RFP, this criterion includes subcriteria for development track record with comparable projects; experience of team members and key personnel; experience with waterfront and historic preservation projects; experience with transaction structures, leasing and marketing, and managing construction; demonstrated ability to successfully operate completed projects on an ongoing basis; proven ability to work with public agencies; a track record of local hiring and participation of locally owned businesses in prior projects; documented ability to work with local organizations and/or address community concerns; and ability to obtain project approvals in a complex political and regulatory context.

### **SF Waterfront Partners**

SF Waterfront Partners' relevant project experience is described in the section on Minimum Qualifications for most of the Criterion 1 items. It notes that the Pier 1½-5 project has achieved average office rents of \$106 per square foot per year on a gross basis, and that the project's rent payments to the Port exceed the minimum and are \$1 million ahead of projections (not verified by BAE). Additional information on Simon Snellgrove's development experience while at other entities





includes Marina Square in Singapore (700,000 square feet of retail and 2,070 hotel rooms) and the Embarcadero Center mixed-use project in San Francisco (3.2 million square feet), as well as his roles as President of US Lend Lease and Managing Director of Lend Lease International, as well as various roles at the Portman Companies.

SF Waterfront Partners states that it has achieved 22 percent Local Business Enterprise (LBE) participation on the Pier 1½-5 project versus a 15 percent target (verification by Port staff is underway, but may not be achievable).

No specific information is provided to document its ability to work with local organizations and/or address community concerns.

Based on the information submitted, SF Waterfront Partners' member's Pier 1½-5 project appears most relevant to Criterion 1 evaluation. This project has experienced strong success, and demonstrates the ability to redevelop an historic waterfront property within the complex legal and environmental regulatory framework involving Port-owned properties.

**Conclusion.** Overall, this team meets most subcriteria for this section, and is qualified to undertake this project, except for missing documentation regarding ability to work with local organizations and address community concerns.

#### TMG Pier 38 Partners

TMG Pier 38 Partners' relevant project experience is described in the section on Minimum Qualifications for most of the Criterion 1 items. Based on the information submitted, TMG Pier 38 Partners member's The Landmark at One Market and 1000 Van Ness projects appear most relevant to Criterion 1 evaluation. The 680 Folsom Street project is not as relevant because it is still in construction and thus has not demonstrated superior long-term results. TMG Partners, a member of TMG Pier 38 Partners, shows extensive development experience throughout the Bay Area, considerably more so than the members of SF Waterfront Partners. However insufficient information is provided to fully evaluate the subcriteria regarding a proven ability to work with public agency, a track record of local hiring and participation, and a documented ability to work with local organizations and/or address community concerns.

TMG Pier 38 Partners Project Manager Amy Neches was previously the San Francisco Redevelopment Agency's manager of the Rincon Point-South Beach Redevelopment Project Areas, and led the Agency's Phase 2 development of the South Beach Harbor including renovation of Pier 40.

In addition to TMG experience, its future partner in Pier 38, Premier Structures, has relevant experience identified as including Development Manager and Project and Construction Manager for the Autodesk facilities at Pier 9 on an interim 10-year lease. Moreover, Premier Principals Paul Osmundson and Elliott Grimshaw were previously at PWP (one of the SF Waterfront Partners entities)



and served as Project Manager and Construction Manager for the Pier 24 and Pier 1½-5 projects. Paul Osmundson was also previously the Port's Lead Negotiator and Project Manager for the Ferry Building Renovation Project; Managing Representative for San Francisco Cruise Terminal, LLC; and Director of Development for Lend Lease Development. The combination of these team members' experiences makes it sufficiently qualified for the Pier 38 Phase 1 project.

No specific information is provided to document its ability to work with local organizations and/or address community concerns.

**Conclusion.** Overall, this team meets most subcriteria for this section, and is qualified to undertake the Pier 38 Phase 1 project, with the exception of missing documentation regarding ability to work with local organizations and address community concerns.

***Evaluation Criterion 2: Financial Capability (15 points)***

A separate analysis of the submitted information is being prepared by Port finance staff.

***Evaluation Criterion 3: Proposed Design, Construction, and Tenant Program (40 points)***

As set forth in the RFP, this criterion includes subcriteria for a strategy that quickly re-tenants the Bulkhead building with uses that best meet Port Development Objectives; consistency with City codes and Secretary's Standards; a strategy to obtain approvals per the regulatory context; strength of the real estate market for the proposed uses; and demonstration of how short-term Bulkhead building rehabilitation will not inhibit long-term reuse of Pier 38.

This section of the memorandum addresses the economic and development-related aspects of Criterion 3. Carey & Company is preparing a separate report that addresses consistency with City codes and Secretary's Standards, and other relevant historic architecture considerations.



The table below compares the two submittals' development programs. As shown, both proposals total roughly the same square footage, but each proposes a different concept.

**Table 1: Summary of Development Programs for Bulkhead (Phase 1)**

	<b>SF Waterfront Partners</b>	<b>TMG Pier 38 Partners</b>
<b>Occupied Areas:</b>		
Office	19,540	19,515
Retail/Restaurant (a)	<u>8,325</u>	<u>6,800</u>
<b>Subtotal</b>	<b>27,865</b>	<b>26,315</b>
<b>Other Areas:</b>		
Parking	18,843	22,400
Maritime (approx)	6,000	2,400
Public Access (b)	<u>15,868</u>	<u>15,400</u>
<b>Subtotal</b>	<b>40,711</b>	<b>40,200</b>
<b>Total Sq. Ft.</b>	<b>68,576</b>	<b>66,515</b>

a) SFWP assumes 1st floor shown as office/ restaurant is leased to restaurant or retail use.

TMG proposal is for informal dining area serving food truck patrons.

b) TMG public access includes 6,000 sq. ft. for food truck parking + entry area to food truck parking area.



### **SF Waterfront Partners**

The conceptual site plan for SF Waterfront Partners' Phase 1 work is shown on the next page. SF Waterfront Partners proposes that its Phase 1 improvements, costing \$10.6 million, will be designed to achieve at least LEED Silver standards, and that it will strive to meet the LEED Gold standard. It envisions a combination of the Port's Reuse Option 1c (per attachments in the RFP for the Port Staff Report for September 20, 2012). This approach would reuse the first floor of the Bulkhead building for casual restaurant and café uses, and the second floor for office uses, with a portion of the parking outlined in Reuse Option 1d used for up to 55 valet parking spaces.

A letter of interest from SOMA Central is provided regarding its interest in working with SF Waterfront Partners to create a tech hub. The mix of office uses that is envisioned includes tech hub/start-ups, established tech firms, and venture capital firms. The market rent information provided by letter in the submittal (from CAC), and more importantly, the rent assumption of \$40 per square foot per year NNN made by this developer in its cash flow, matches or is less than potential SoMa market rents (note: depends on cost reimbursement formulas, also included in SF Waterfront Partners but with insufficient detail to determine total cost of occupancy to tenant for comparison-to-market purposes).

The retail space is envisioned as containing three separate spaces. A letter of interest is provided from The Slanted Door Group (Charles Phan) for creation of an "Asian fast food" casual café. A business plan for the San Francisco Beer Garden is also provided that envisions outdoor dining, but a letter of interest is not provided by a specific operator. While not specified in the submittal, it appears the Beer Garden use would be on the north side of the Bulkhead building, facing the Brannan Street Wharf.

Parking would consist of either 24 self-park or up to 55 valet spaces, priced for short-term use only. Bike lockers for tenants and visitors would also be provided. Maritime uses would include repairs to the existing dock on the north side of Pier 38 to allow short-term and transient small boat berthing; free use by a water taxi; a kayak landing; and a small boat launch. These uses would create a boating activity center that includes a two-ton boat launch crane.

Public access would be enhanced by removing a ground floor office space to create a breezeway that connects the Embarcadero to the south apron of Pier 38. This would create a Port walk that would proceed through the Pier 38 shed, to a reconfigured north apron that is connects with the new Brannan Street Wharf project.

The public access and maritime uses are expected to facilitate regulatory approvals. A CEQA categorical exemption will be sought, although the submittal notes that requirements for temporary pilings on the south apron to support required exiting from the second floor uses may present a risk of a CEQA challenge, leading to delays or other risks for project approval.





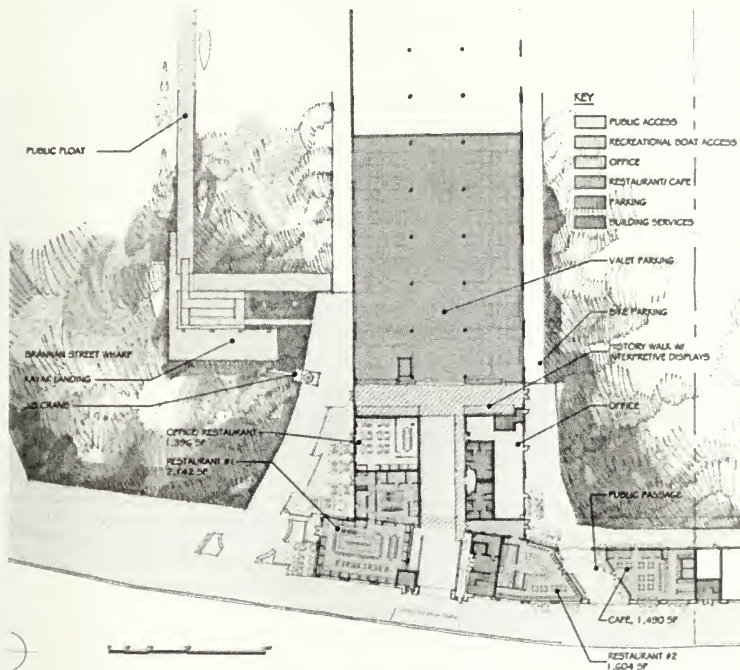
A letter is provided from the CAC Group identifying office rents in comparable projects in the Pier 38 area at \$60+ per square foot per year, gross. A letter from Terranomics is provided expressing its confidence in its ability to attract high-quality retail tenants from \$50 to \$60 per square foot per year, triple-net. These figures are at or higher than the rents assumed in the SF Waterfront Partners cash flow mode for base rent; however, for total office rent revenue, the SF Waterfront rent assumption for Pier 38 shown in their cash flow is \$40 per square foot NNN, but also includes a very substantial cost pass-thru, resulting in total rent revenues of more than \$70 per square foot from office space upon stabilization. .

It should be noted that this proposal by SF Waterfront Partners provides a higher level of improvements and more permanent retail tenants, along with greater public access and a more extensive set of maritime uses in its Phase 1 concept, than the TMG proposal. However, the resulting higher improvement costs (\$10.6 million versus \$6.9 million for TMG) also result in substantially lower rent payments to the Port (see next section of memo). It also should be noted that this team's approach to Phase 2 (not evaluated herein) means that some improvements made for Phase 1 would need to be demolished, 2<sup>nd</sup> floor office users would need to be vacated, and the Phase 1 south apron improvements would be removed for the Phase 2 seismic retrofit work. SF Waterfront Partners notes that its Phase 1 project thus creates a challenge because of the additional significant cost burden it places on Phase 2 work.

**Conclusion.** This project concept meets the criteria in the RFP. It is envisioned in a way that will provide permanent improvements and more extensive public access in Phase 1 than the other proposal. The concept is relatively expensive as portrayed, however, and will likely result in lower rent payments to the Port than the other proposal. Also, as envisioned, some improvements will need to be demolished in the event of a Phase 2, which BAE concludes should be considered carefully to avoid a scheme creating this situation if not necessary.



Figure 1: SF Waterfront Partners Proposed Phase 1 Reuse and Improvements (1<sup>st</sup> Floor)





### **TMG Pier 38 Partners**

The conceptual plan for TMG Pier 38 Partners Phase 1 work is shown after this narrative section. This proposal shows a cost of \$6.9 million for Phase 1, and is focused on a limited initial investment that meets accessibility and code requirements, in order to quickly activate the Bulkhead building with new uses. According to the proposal, this approach minimizes Phase 1 costs in order to benefit the overall project economics during Phase 2 (not evaluated herein).

The southern portion of the Bulkhead's first floor, as well as the western portion of the mezzanine, will be used for office space. Office uses will be oriented to tech and creative tenants, and TMG Pier 38 Partners indicates that it is in discussions with several of the former tenants. The northern portion of Bulkhead's first floor will be used as an informal dining area, accessible to patrons of food trucks that would be located inside the shed, adjacent to the north apron. This informal dining area will be open to the public, with outdoor seating, and will also be available for occasional live music programming. The food truck area will involve a revolving program of different operators, and TMG Pier 38 Partners is in discussions with the Off the Grid food truck organization for its operation. Parking would be incorporated by using a portion of the shed for approximately 40 to 60 spaces to serve new office tenants (note: proposal states that this use of the shed is scaled to avoid seismic retrofit), with egress through the main entrance to the Bulkhead building. The maritime area will involve reuse of the northern finger pier as a visitor-serving guest dock as well as a location for the San Francisco Water Taxi.

The proposal envisions generally pursuing the Port's Reuse Option 1 (closest to 1d, but with less parking). However TMG identifies a specific list of improvements from the Port's Reuse Option that would not be performed in Phase 1; these would instead be deferred to Phase 2. TMG Pier 38 Partners states that even with these exceptions, the proposed Phase 1 improvements will meet code requirements. Notable exceptions are that Phase 1 would not include reuse of the south apron, fire sprinklers would not be extended into the unused portion of the shed, and one Limited Use/Limited Accessibility elevator would be provided.

This proposal includes a discussion of the context and issues for regulatory approvals from various agencies. It envisions that a CEQA Categorical Exemption will be sought for the interim leasing (Phase 1), and if required a Mitigated Negative Declaration. The discussion of market support is more limited than in the other submittal, with a brief discussion of the current office market vacancy rate in the South Beach submarket in 2012 being under five percent, with the highest average rent of any submarket at \$46 per square foot per year, gross. The actual cash flow from TMG shows base rents of \$40 per square foot, and small cost reimbursements in addition, totaling \$50 per square foot for the office space component.

**Conclusion.** This concept meets the RFP criteria, although it does so with the caveat that TMG's proposed Phase 1 improvements diverge in several ways from the visions put forth by the Port, resulting in a lower-cost Phase 1 with the added flexibility of not requiring demolition of any Phase 1 improvements to effect a future Phase 2. The separate report from Carey & Company will provide an

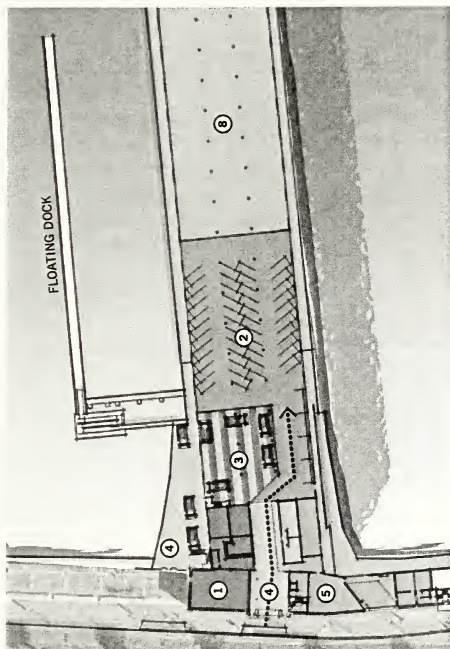


opinion as to whether the TMG list of Phase 1 improvements will likely meet all applicable code requirements. If the TMG approach is feasible, then it provides a lower-cost, higher rent situation to the Port for Phase 1 reuse.





Figure 2: TMG Pier 38 Partners Proposed Phase 1 Reuse and Improvements (1<sup>st</sup> Floor)



**PUBLIC TRUST USES**

①	RETAIL / DINING	6,800 SF
②	PARKING (+/- 45 SPACES)	22,400 SF
③	PUBLIC ACCESS / FOOD TRUCK	6,000 SF
<b>SUBTOTAL</b>		<b>35,200 SF</b>
④	PUBLIC ACCESS GUEST DOCK	9,400 SF 2,400 SF
<b>TOTAL</b>		<b>47,000 GSF</b>

**OTHER USES**

⑤	1ST LEVEL OFFICE	6,600 SF
⑥	2ND LEVEL OFFICE (SHED)	7,415 SF
⑦	2ND LEVEL OFFICE (BULKHEAD)	4,887 SF
<b>TOTAL OFFICE</b>		<b>18,902 SF</b>
⑧	NOT ACCESSIBLE / NO IMPROVEMENTS	78,300 SF
<b>TOTAL</b>		<b>97,202 GSF</b>



**Evaluation Criterion 4: Proposed Financial Terms (20 points)**

As set forth in the RFP, this criterion includes subcriteria for cash flow projections that demonstrate the ability to meet all lease, debt service, and operating expenses (e.g., feasibility to developer); and the proposed annual rent structure to the Port. A summary of the deal terms proposed by each submittal are shown below:

**Table 2: Comparison of Proposed Phase 1 Term Sheets, Pier 38 RFP Submittals**

	<b>SF Waterfront Partners (a)</b>	<b>TMG Pier 38 Partners</b>
<b>Lease Term (years)</b>	20	25
<b>Proposed Rent</b>		
<b>Base Rent</b>	\$5,000 per month during construction; thereafter \$0.50 per square foot per year for office & retail areas	\$300,000 per year
<b>Rent Adjustments</b>	None	5% every 5 years
<b>Rent Credit</b>	None	Hard costs amortized at mutually agreed rate of return, credited against up to 50% of base rent (maximum \$150,000 per year)
<b>Percentage Rent</b>	50% of net parking receipts	None
<b>Participation Rent</b>	Transfer fee (not specified) on sale to be paid to Port or affordable housing developer at Port's discretion.	15% of net proceeds from sale or transfer of Lease (excluding transfer to affiliated entities)
<b>Other Consideration</b>	Ongoing transit impact fees, parking surplus fee, subsidized junior sailing, discounted Port use of public space (amounts for all are unspecified)	
<b>Lease Commencement</b>	Issuance of a Temporary Certificate of Occupancy	Upon Board of Supervisors approval and receipt of all approvals and building permits
<b>Rent Commencement</b>	Construction	Later of 12 months following Lease Commencement or stabilization
<b>Security Deposit</b>	None identified	2 months base rent

(a) Revised proposal by SF Waterfront Partners as described in memorandum.

Note: BAE made adjustments to these proposed terms as noted in the next section and in Appendix B, to conduct its cash flow analysis.

Sources: SFWP; TMG; BAE, 2013.



### ***BAE Cash Flow Analysis***

The proposed terms and cash flow model assumptions provided by the submitters were used, except that in order to provide a comparable “apples to apples” evaluation of financial terms, certain common assumptions were used by BAE irrespective of the submittals for the financial analysis of Phase 1, including:

- A Phase 1 lease term of 20 years;
- Rent increases of three percent per year, effective every five years (i.e. when tenants renew leases or vacate their premises);
- Office vacancy factor of five percent; and
- Operating expense increases of three percent per year; two percent increase per year in property taxes (possessory interest tax).

The proposed participation rent (other than parking) and other lease consideration was not evaluated, due to either the speculative nature of any assumptions as to when a sale might occur, and/or a lack of sufficient information to calculate net proceeds.

The adjusted cash flows prepared by BAE are shown as Appendix B to this memo. The following describes the financial analysis for each submittal.

#### **SF Waterfront Partners**

SF Waterfront Partners provided a pro forma for stabilized operations in its submittal per RFP requirements, while the other submitter provided a 25-year cash flow projection. Subsequent discussions with SF Waterfront Partners to obtain information needed for BAE to develop a cash flow model led to SF Waterfront Partners providing the Port with its full cash flow model, and also identifying an alternate proposed rent structure from what is described in its submittal. SF Waterfront Partners identified that the reason for the change in the proposed rent structure is to ensure that the Port receives rent every year; otherwise the rent structure in its submittal, less rent credits to amortize infrastructure costs, would have resulted in the Port receiving no rent prior to Year 11. SF Waterfront Partners in subsequent communications indicated that Phase 1 is likely infeasible from their point of view, and notes in its written submittal that one of the challenges for Phase 1 is the impact of its cost upon the feasibility of the Phase 2 project (this issue is also identified in the other submittal).

SF Waterfront Partners proposes rent to the Port that would total \$60,000 during the construction period. Following construction, the base rent would be set at \$0.50 per square foot per year of occupied space (retail and office). In addition to this amount, the Port would be paid 50 percent of net parking receipts. There would be no rent credits for infrastructure or other improvements to the Pier 38 Bulkhead building.

Despite these conditions, the BAE analysis indicates that the project would achieve a substantial return on costs, achieving just under 10% return in early stabilized years, and exceeding 20% in out



years. This level of return on costs indicates feasibility to the developer, and suggests that additional rent payments could be made to the Port, depending on final negotiations.

**Conclusion.** This proposal meets the criteria in the RFP, offering a substantial investment in the Bulkhead building, and providing more public access than the other proposal. However, it has the drawback of aiming at relatively high office rents, making certain improvements that would need demolition (according to the submittal) in the event of a Phase 2 project, and results in much lower rent payments to the Port than the other proposal. It is feasible from the developer's standpoint, when considering overall return on costs, and improves substantially in later years, indicating potential for some additional rent payments to the Port not offered by this team.

### ***TMG Pier 38 Partners***

TMG Pier 38 Partners provided a cash flow model in its submittal. It would not make payments during the construction period; however, starting with the later of 12 months after Lease Commencement or stabilization of occupancy, the developer would pay the Port \$25,000 per month in base rent, with a five percent adjustment every five years. TMG Pier 38 Partners proposes that it receive a rent credit for its actual hard construction costs, amortized at a negotiated rate of return, and credited against up to one-half of the monthly base rent. Additional rent credits would be provided for substructure maintenance. In its cash flow model, TMG Pier 38 Partners identifies a monthly rent credit at \$12,500. It should be noted that because a proposal for calculation of the rent credit is not identified, only a cap, it is not possible to determine whether the \$12,500 per month rent credit figure would be sufficient to amortize the dollar value of the improvements for which TMG Pier 38 Partners proposes to receive a rent credit by the end of the proposed Phase 1 lease term. However, BAE assumed that this is the proposed rent payment/rent credit, and a negotiated agreement would stick with this cash flow to the Port, even in the event that it did not amortize all costs.

It should be noted that the TMG Pier 38 Partners cash flow showed an unexplained decline in office rent revenue on one "out year"; from \$859,000 in 2019 to \$699,000 in 2020. Thereafter rent increases and exceeds the 2019 figure by 2030. BAE assumed this was an error, and this discrepancy nonetheless disappeared when BAE smoothed the cash flows out for comparison purposes.

**Conclusion.** This proposal offers more rent revenue to the Port, while also providing a lower-cost, less intensive program of Phase 1 improvements. It is feasible from the developer's standpoint, when considering overall return on costs.





### ***Comparison of Rent Proceeds to Port***

The following table compares the rent payments to the Port based on the information provided by each of the submitters:

---

**Table 3: Comparison of Phase 1 Proposed Rent Payments to the Port, 2014 - 2033**

---

	<u>SFWP</u>	<u>TMG</u>
<b>Construction Period Rent</b>	<b>\$60,000</b>	<b>\$0</b>
<b>Lease Term Rent Calculations</b>		
Total Base Rent - 20 Years	\$299,980	\$6,165,188
Percentage Rent (on Parking)	<u>375,035</u>	<u>0</u>
	\$675,014	\$6,165,188
Less Proposed Rent Credits	<u>0</u>	<u>(2,850,000)</u>
<b>Total Current Dollar Rent to Port Through Year 20</b>	<b>\$675,014</b>	<b>\$6,165,188</b>
<b>Net Present Value at 4% Discount Rate</b>	<b>\$457,989</b>	<b>\$2,244,920</b>

**Notes:**

- See worksheets for assumptions and details of calculations.
- Excludes any participation rents from sale or transfer of leasehold interest.

---

Sources: SFWP; TMG; BAE, 2013.



## Port's Development Objectives

A separate analysis by Carey and Company of how the submitters' Rehabilitation Concepts will repair the Pier 38 Bulkhead building and meet the Secretary's Standards to satisfy the Port's first development objective is being separately prepared. Both submittals provide Rehabilitation Concepts that outline in a general manner how the Port's other Development Objectives will be advanced, although based on the level of detail at this point much of this is stated as general commitments and intentions rather than specific courses of action. Both submittals appear to have the potential to advance the Port's Development Objectives to approximately the same extent, with selected differences as noted below:

- *Ongoing revenue to the Port.* TMG Pier 38 Partners' lower investment in improvements, including a lesser amount of public access and deferral of certain repairs and improvements to Phase 2, along with a considerably lower development return (based on BAE's calculations), allows it to pay considerably more rent to the Port, totaling \$1.8 million more over 20 years on a Net Present Value basis.
- *Re-tenanting.* SF Waterfront Partners provides more specifics on its future tenants, including its discussions with SOMA Central, the former Pier 38 tech hub tenant, and a letter of interest or business plan from two restaurant operators.
- *Relationship of Phase 1 improvements to long-term reuse of Pier 38.* SF Waterfront Partners seeks to create more extensive permanent improvements during Phase 1, while TMG Pier 38 Partners seeks to reduce the cost of Phase 1 improvements by deferring some items the Port identified until Phase 2, as well as by the nature of its reuse program (e.g., food trucks not requiring extensive improvements to implement now). The TMG approach reuses the Bulkhead more quickly, at lower cost, and with fewer future demolition of Phase 1 improvements if a Phase 2 were undertaken. This approach by TMG results in the ability to pay rent to the Port at a substantially higher level. The only potential downside to TMG's scheme is if the Port desires more permanent improvements to be made now, and/or if aspects of TMG's scheme prove unworkable according to City codes and ordinances.
- *Sustainable development program.* While both submitters commit to sustainable development principles, SF Waterfront Partners provides more specifics, including use of solar panels and outside air; recycling facilities; a "green" program for restaurants (e.g., composting, energy-efficient appliances, etc.); and bicycle lockers and racks. No monthly parking would be provided on-site to its office tenants (TMG Pier 38 Partners would provide on-site parking in a portion of the pier shed to tenants).



## Summary

This section provides a summary comparison of the information from both submitters for the evaluation criteria, except for the criteria for financial capacity and financing strategy being evaluated by Port finance staff; and the criteria for code, historic compliance, and architectural issues being evaluated by Carey & Company.

- **Qualifications.** Both submitters, SF Waterfront Partners and TMG Pier 38 Partners, demonstrate that they meet the minimum qualifications for length of experience in commercial real estate development and successful completion of similar projects (Criterion 1).
- **Design Concept.** The two submitters take substantially different approaches to their proposed design, construction, and tenant program (Criterion 3). SF Waterfront Partners envisions a Phase 1 improvement program with a \$10.6 million investment that provides three first floor casual café and dining uses (with information from two potential restaurant operations), a new "PortWalk" that consists of a breezeway through the first floor of the Bulkhead building connected to a repaired south apron that proceeds through the shed to the north apron. TMG Pier 38 Partners envisions a Phase 1 improvement program with a lower \$6.9 million investment, premised upon deferral of certain Port-identified code upgrades while still achieving code compliance, that will provide an informal dining area and food truck court, and access to only the north apron. This program will come on-line some months sooner, and also enables a higher rent payment to the Port.

TMG Pier 38 Partners envisions office use in the first floor of the southern portion of the Bulkhead building; both submitters envision using the second floor of the building and a portion of the mezzanine for office space. SF Waterfront Partners envisions a more extensive reuse of the northern finger pier and addition of facilities to support a range of boating activities, while TMG Pier 38 Partners envisions reuse of the existing finger pier for a guest dock. Both submitters will provide a stop for the San Francisco Water Taxi.

- **Regulatory Approvals.** Both submitters identify strategies for regulatory approvals, and their reuse programs are both supported by current market conditions.
- **Financial Feasibility.** Both submitters are clear in identifying the cost of Phase 1 improvements as a challenge for the feasibility of overall redevelopment of Pier 38, and have either stated or implied that their Phase 1 improvement programs are ultimately feasible only if they are linked to the ability to plan and implement the overall redevelopment of Pier 38. However, independent cash flow analysis by BAE suggests that both proposals achieve at least a nearly 10% return on cost at stabilization, with greater returns in subsequent years, indicating likely feasibility to the developers in both cases.



- **Rent Revenue to the Port.** Proposed rent payments to the Port (Criterion 4) vary substantially between the two submitters, with total dollar rental payments on a Net Present Value basis over the 20-year term of a Phase 1 lease at nearly \$460,000 from SF Waterfront Partners, and \$2.2 million from TMG Pier 38 Partners. Much of this difference can be accounted for the much more expensive Phase 1 improvements envisioned by SF Waterfront Partners (nearly \$4 million more than TMG Pier 38 Partners). Subsequent years of SF Waterfront's project appear to provide higher returns, suggesting that an agreement with the Port could accommodate include increased rent payments above what has been proposed by this developer, over time.





## APPENDIX A: SUMMARY CHART OF EVALUATION CRITERIA



# Evaluation of Pier 38 Phase 1 Submittals

## SF Waterfront Partners, LLC

## TMG Pier 38 Partners, LLC

San Francisco Waterfront Partners III, LLC (SFWP III), to be formed, and wholly owned by San Francisco Waterfront Partners, LLC, (SFWP), whose Managing Member is Pacific Waterfront Partners, LLC (PWP) with a 1% ownership; CalSTRS is 99% owner of SFWP. PWP is 25% owned by Alicia Esterkamp Albin; 75% by Simon W.R. Snellgrove.

### Core PWP Team Members:

- Acquisition & Entitlements: Alicia Esterkamp Albin, Simon Snellgrove
- Design & Construction: Simon Snellgrove & Julian Snellgrove
- Finance and Compliance: Darren Bradley
- Financial Underwriting: Debra Viall
- Marketing & Leasing: Alicia Esterkamp Albin
- Property Management: Europa Baldevia

### Development Team:

- Architect of Record/Historic Preservation Architect: Page & Turnbull
- Interior Architect: Lundberg Design
- Design Architect: Moss Wong Associates
- Structural Engineer: Rutherford + Chekene
- Maritime Engineering: Moffat & Nichol
- Mechanical & Electrical Engineer: Glumac
- Contractor: Cahill Contractors, Inc.
- Substructure Contractor: Power Engineering

TMG Pier 38 Partners, LLC, a joint venture with TMG Partners and Premier Structures, Inc. (a Francisco LBE, Principals are Elliott Grimshaw and Paul Osmundson) and other equity investors. Premier Structures percentage of equity interest to be negotiated.

### Core TMG Team Members:

- Project Manager: Amy Neches, TMG Partner  
Negotiations: Matt Field, TMG Managing Director  
Leasing: Tom Stubbs, TMG Partner

### Development Team:

- Architect: Perkins + Will
- Structural Engineer/Fire: Holmes Culley/Homes Fire
- Contractor: Plant Construction
- Legal: Gibson Dunn

Additional consultants to be added, including:

- Historic Preservation Consultant: Architectural Resources Group
- MHC Engineers (SF Certified LBE)

list may  
only involved  
al breaks



# ry Evaluation of Pier 38 Phase 1 Submittals

## SF Waterfront Partners, LLC

## TMG Pier 38 Partners, LLC

San Francisco Waterfront Partners III, LLC (SFWPIII), to be formed, and wholly owned by San Francisco Waterfront Partners, LLC, (SFWP), whose Managing Member is Pacific Waterfront Partners, LLC (PWP) with a 1% ownership; CalSTRS is 99% owner of SFWP. PWP is 25% owned by Alicia Esterkamp Allbin; 75% by Simon W.R. Snellgrove.

### Core PWP Team Members:

- Acquisition & Entitlements: Alicia Esterkamp Albin, Simon Snellgrove
- Design & Construction: Simon Snellgrove & Julian Snellgrove
- Finance and Compliance: Darren Bradley
- Financial Underwriting: Debra Viall
- Marketing & Leasing: Alicia Esterkamp Albin
- Property Management: Europa Baldevia

### Development Team:

- Architect of Record/Historic Preservation Architect: Page & Turnbull
- Interior Architect: Lundberg Design
- Design Architect: Moss Wong Associates
- Structural Engineer: Rutherford + Chekene
- Maritime Engineering: Moffat & Nichol
- Mechanical & Electrical Engineer: Glumac
- Contractor: Cahill Contractors, Inc.
- Substructure Contractor: Power Engineering

TMG Pier 38 Partners, LLC, a joint venture with TMG Partners and Premier Structures, Inc. (a Francisco LBE, Principals are Elliott Grimshaw and Paul Osmundson) and other equity investors. Premier Structures percentage of equity interest to be negotiated.

### Core TMG Team Members:

Project Manager: Amy Neches, TMG Partner  
Negotiations: Matt Field, TMG Managing Director  
Leasing: Tom Stubbs, TMG Partner

### Development Team:

- Architect: Perkins + Will
- Structural Engineer/Fire: Holmes Culley/Homes Fire
- Contractor: Plant Construction
- Legal: Gibson Dunn

Additional consultants to be added, including:

- Historic Preservation Consultant: Architectural Resources Group
- MHC Engineers (SF Certified LBE)

this list may  
be only involved  
in initial breaks



# Prj Evaluation of Pier 38 Phase 1 Submittals

## SF Waterfront Partners, LLC

## TMG Pier 38 Partners, LLC

ry (Phase 1)  
Criteria 2a for  
ation Concept,  
to Port's

Construction Co.			
<ul style="list-style-type: none"> <li>• Other Subcontractors: ACCO, Decker Electric</li> <li>• Legal/Land Use: Gibson Dunn &amp; Crutcher</li> <li>• Legal/CEQA: Remy Moose Manley</li> <li>• Legal/Historic Tax Credits &amp; Land Use: Farella Braun and Martell</li> </ul>			
<u>Occupied Area</u> (sf):		<u>Occupied Area</u> (sf):	
Office	19,540	Office	19,515
Restaurant/Café	<u>8,325</u>	Food Truck Dining Court	<u>6,800</u>
Total	27,865	Total	26,315
<u>Other Areas</u> (sf):		<u>Other Areas</u> (sf):	
Parking (up to 55 valet)	18,843	Parking (40 - 60 spaces)	22,400
Maritime (approx.)	6,000	Maritime (approx.)	2,400
Public Access (PortWalk, Aprons)	<u>15,868</u>	Public Access/Food Truck Parking	6,000
Total	40,711	Public Access - Apron, Entry	<u>9,400</u>
Total Lease Area (sf)	68,576	Total	40,200
		Total Lease Area (sf)	66,515

mercial real

least 3  
scope, at least  
ct  
e Secretary of

Yes		Yes	
Yes		Yes	
<ul style="list-style-type: none"> <li>• Piers 1½- 5 - \$65M historic tax credit rehab</li> <li>• 8 Washington - construction to start 2014</li> <li>• Pier 24 Annex</li> <li>• Bay School - 62,000 sf building in Presidio (with Equity Community Builders)</li> </ul>		<ul style="list-style-type: none"> <li>• The Landmark at One Market - 444,000 sf Class A office historic tax credit rehab</li> <li>• 680 Folsom St., current construction of 521,000 sf office buildings with 85% preleased, including addition of 110,000 sf,</li> </ul>	





# y Evaluation of Pier 38 Phase 1 Submittals

## SF Waterfront Partners, LLC

## TMG Pier 38 Partners, LLC

emonstrated  
ed project on  
ms from bona

via OPA with SFRA

- 1000 Van Ness – historic tax credit rehab of Cadillac dealership into mixed-use with multiplex, condos, retail, and parking.

*(Review by Port finance staff)*

hab and  
omparable  
expense,

Yes

SFWP is Developer for Piers 1½,3,5. PWP is Development Manager for Pier 24; Co-Development Manager for Bay School. Snellgrove was Development Director for Marina Square (700K sf retail, 2,070 hotel rooms in Singapore), Embarcadero Center mixed-use office (3.2M sf).

Piers 1½,3,5 has achieved average office rents of \$106 psf gross. Rent to port exceeds minimum, and is \$1M ahead of projections.

Yes

TMC is Developer for The Landmark at One Market; 680 Folsom St; and 1000 Van Ness.

Premier Structures is Development Manager and Project and Construction Manager for Autodesk facilities at Pier 9 on interim 10 year lease.

Premier Principals Paul Osmundson and Elliott Grimshaw were previously at PWP and served as Project Manager and Construction Manager for Pier 24 and Piers 1½,3,5. Paul Osmundson was Port's Lead Negotiator and Project Manager for the Ferry Building Renovation Project; he was also Managing Representative for San Francisco Cruise Terminal LLC and Director of Development for Lend Lease Development.



# y Evaluation of Pier 38 Phase 1 Submittals

	SF Waterfront Partners, LLC	TMG Pier 38 Partners, LLC
s and key	<p><b>Yes</b></p> <p>Simon Snellgrove was President of US Lend Lease and Managing Director of Lend Lease International. He was previously at the Portman Companies, including Development Director for Marina Square (700K sf retail, 2,070 hotel rooms in Singapore), Embarcadero Center mixed-use office in San Francisco (3.2M sf).</p>	<p><b>Yes</b></p> <p>Project Manager: Amy Neches, previously SFRA manager of Rincon Point-South Beach Redevelopment Project Areas, led Phase 2 development of South Beach Harbor, including renovations of Pier 40.</p> <p>Premier principals Paul Osmundson and Elliott Grimshaw were previously at PWP and served as Project Manager and Construction Manager for Pier 24 and Piers 1½,3,5. Paul Osmundson was Port's Lead Negotiator and Project Manager for the Ferry Building Renovation Project; he was also Managing Representative for San Francisco Cruise Terminal LLC and Director of Development for Lend Lease Development.</p>
nd/or historic ularly those ds.	<p><b>Yes</b></p> <p>Redevelopment of Piers 1½-5; Pier 24.</p>	<p><b>Yes</b></p> <p>TMG Project Manager: Amy Neches, previously SFRA manager of Rincon Point-South Beach Redevelopment Project Areas, led Phase 2 development of South Beach Harbor, including renovations of Pier 40.</p> <p>Premier principals Paul Osmundson and Elliott Grimshaw were previously at PWP and served as Project Manager and Construction Manager for Pier 24 and Piers 1½,3,5. Paul Osmundson was Port's Lead Negotiator and Project</p>



# Final Evaluation of Pier 38 Phase 1 Submittals

	SF Waterfront Partners, LLC	TMG Pier 38 Partners, LLC
Identifying and defining scope, securing managing the	Yes Redevelopment of Piers 1½-5.	Manager for the Ferry Building Renovation Project. Yes The Landmark at One Market; 1000 Van Ness.
Rate and s once ning on-going	Yes Redevelopment of Piers 1½,3,5.	Yes The Landmark at One Market; 1000 Van Ness.
Public agencies	Yes Projects shown under experience all involve work with public agencies.	Yes Many projects shown under experience include those involving public agencies.
and d businesses	Need to verify Claimed to have achieved 22% LBE participation on Piers 1½-5 vs. 15% target.	Not provided in submittal.
with local s community	Not provided in submittal.	Not provided in submittal.
, ability, and vals in a ory context.	Yes Redevelopment of Piers 1½- 5	Yes The Landmark at One Market; 1000 Van Ness. TMG does not describe experience with Port or BCDC, but its future partner Premier Structures does have this experience.



# by Evaluation of Pier 38 Phase 1 Submittals

SF Waterfront Partners, LLC

TMG Pier 38 Partners, LLC

oints)

(Review by Port finance staff)

ction, Tenant

oints)

khead

meet

See Detailed Development Objectives Chart.

See Detailed Development Objectives Chart.

onsistent with  
standards.

(Separate review by Carey & Company)

(Separate review by Carey & Company)

for proposed  
Regulatory

Yes

Proposal includes new Port Walk, removal of ground floor office to provide access from the Embarcadero to the south apron of Pier 38, adaptation of the south apron to provide access through the repaired Shed to the apron on the north side of Pier 38. he dock and marina will be repaired and put back into use.

Phase 1 would seek CEQA categorical exemption (Class 1, 2, 31, and/or 32).

Anticipates need for new BCDC permit due to previous tenant non-compliance with current permit.

Requirements for temporary piling on the south apron to support second floor exiting requirements may present a risk to the CEQA analysis.

Yes

Interim leasing is per Port practices. Will seek CEQA Categorical Exemption for interim use (Class 31 and/or Class 32), and if required a Mitigated Negative Declaration. Interim leasing program is consistent with Waterfront Land Use Plan. BOS approval required for interim lease.

Assumes assignment of existing BCDC permit to the developer for short-term reuse via a minor amendment.





# y Evaluation of Pier 38 Phase 1 Submittals

	SF Waterfront Partners, LLC	TMG Pier 38 Partners, LLC
al estate	<p>Yes</p> <p>Letter from CAC Group identifying rents at comparable projects in \$60+ per sf/yr range.</p> <p>Letter from Terranomics expressing confidence in ability to attract high-quality tenants at rents of \$50 - \$60/sf NNN</p>	<p>Yes</p> <p>Discussion of office vacancy rate for South Beach submarket in 2012 was under 5%, lowest of any SF submarket, with highest average rent at \$46 psf/yr.</p>
erm not inhibit	<p><b>Partial Demonstration</b></p> <p>Temporary facilities (cafes); use of minor moment frames &amp; shear walls in Phase 1 that will contribute to Phase 2 development but not hinder it. Other interim improvements, such as a new apron, would need to be removed for Phase 2 seismic upgrading.</p>	<p><b>Partial Demonstration</b></p> <p>Phase 1 improvements have been designed to reduce costs in order to minimize removal of improvements for Phase 2 work. All uses that would impact long-term renovation have been deferred to the Phase 2 renovation program.</p>
(20 points)		
nonstrate service, and	<p>Not provided in submittal.</p> <p>Cash flow was subsequently provided on request, and then further refined by BAE.</p> <p>Note that BAE reworking of cash flow shows feasibility of Phase 1, but with low rent payments to Port.</p>	<p>Yes</p> <p>Provided with submittal for Phase1 Bulkhead. BAE modified for analysis.(shortened lease term to 20 years for comparison purposes).</p> <p>Note: Phase 1 is feasible as proposed, with high rent payments to Port. Due to lower improvement costs in TMG scheme.</p>
re to Port 2013.	<p>Yes-Lower rent payments to Port (see memo)</p>	<p>Yes-Higher rent payments to Port (see memo).</p>



# Final Evaluation of Pier 38 Phase 1 Submittals

## Development Objectives

	SF Waterfront Partners, LLC	TMG Pier 38 Partners, LLC
<p>building which structural deficiencies, pl, electrical and construct any other access and ADA, building code per regulatory consistency with the</p>	<p>(Separate review by Carey &amp; Company)</p>	
<p>implementation the Pier 38 to achieve the link into economic revenue stream</p>	<p><b>Partial (see below)</b></p> <p>The Rehabilitation Concept re-tenants Pier 38, but may take longer due to more extensive rehab improvements. This more complex development program means occupancy occurs in mid-2015, and lease-up allows up to 3 years according to submittal. The higher cost of improvements results in a lower rent payment to Port.</p>	<p><b>Yes – Meets most effectively</b></p> <p>The Rehabilitation Concept re-tenants Pier 38 more quickly and at greater return to Port. This team's simpler development program means occupancy occurs by the beginning of 2015, and full rental revenues are realized from the project's opening. However, less comprehensive rehab program provides smaller public access footprint for Phase 1.</p>
<p>of the Pier 38 office, high ing commercial, uses, and, ent adjacent</p>	<p><b>Yes</b></p> <p>The Rehabilitation Concept brings in all of these uses except for entertainment and cultural uses. It provides more visitor serving commercial uses with three restaurants/cafes, and a more extensive array of maritime uses, including a small boating center.</p>	<p><b>Yes</b></p> <p>The Rehabilitation Concept brings in all of these uses except for entertainment and cultural uses (aside from an unspecified amount of live musical and other events). Its visitor serving uses are limited to the food truck court, and maritime uses are limited to a guest dock and water taxi stop.</p>



# y Evaluation of Pier 38 Phase 1 Submittals

SF Waterfront Partners, LLC

TMG Pier 38 Partners, LLC

of the South  
ay Bridge to  
is historic  
er 38 into the  
y bringing  
to the

erm Pier 38  
ion will not  
ier 38 (i.e.,  
nstruction and  
ossible  
of the entirety or

physical  
building and

se will be  
of Interior's  
of Historic  
ards").

Both Rehabilitation Concepts would advance this Development Objective. Based on the level of development of the concepts and detail that is provided in the submittal, both submittals at this point appear likely to provide a comparable boost to South Beach waterfront redevelopment, albeit with a different mix of uses and activities.

Yes

Physical improvements, to the extent possible, will be designed so that they can be reused in a Phase 2 project, and alternative approaches to Phase 2 seismic retrofit are under consideration. Some improvements, such as south apron repairs, would need to be removed but are needed to accomplish Phase 1 goals for public access. Office leases will provide for termination for Phase 2 work, and restaurant leases will contain provisions to allow suspension of operations for Phase 2 work.

Yes

Uses are proposed that require considerably less improvement to Bulkhead (i.e. food trucks instead of restaurants); South Apron is closed off to public use rather than repaired; and a number of near-term repairs and improvements identified by the Port in its Reuse Option 1 are deferred to a Phase 2 project.

Partial – Elevations not provided

Partial – Elevations not provided

Note: fencing off of South Apron may be detrimental to overall appearance.

(Separate analysis by Carey & Company)



# Evaluation of Pier 38 Phase 1 Submittals

	SF Waterfront Partners, LLC	TMG Pier 38 Partners, LLC
ment program n private ciently and, as energy City's Green	<p><b>Yes</b></p> <p>The Rehabilitation Concept will be designed to LEED Silver and possibly LEED goal, and will meet the City's Green Building Standards. Mentions alternative power sources such as solar panels and 100% outside air. Mentions Green Restaurant program with tenants. No commuter parking will be provided, and parking will be priced to encourage short-term use. Bike lockers and free parking racks will be provided. A transportation and education program will be prepared for tenants.</p>	<p><b>Partial (not fully detailed in submittal)</b></p> <p>Energy and water efficiency will be incorporated into improvements where appropriate. The feasibility and financing of onsite renewable energy will be studies. Low emission and recycled building materials will be used where possible. Parking impacts will be minimized.</p>
ment to er 38 bulkhead	Not detailed in submittal.	Not detailed in submittal.
ment s and , construction Pier 38	Not detailed in submittal.	Not detailed in submittal.
Pier 38.	Yes- utilizes existing Security Director	Yes - will hire private security firm

2013.





## APPENDIX B: CASH FLOW ANALYSES OF EACH SUBMITTAL



**Comparison of Phase 1 Cash Flow Model Assumptions, Pier 38 RFP Submittals**

6/12/12

CONFIDENTIAL - CONSULTANT DRAFT - FOR INTERNAL USE ONLY

**PROPOSAL ASSUMPTIONS**  
*Note: Phase 2 proposals excluded.***San Francisco****Waterfront Ptrs III, LLC****TMG Pier 38 Ptrs, LLC****BAE Notes / Modeling /**

Lease Term - Years

20

25

Assume leases start 1/1/ for both. Cash flow mode allow consistent compari

Commencement

Permit issuance

Later of 12 mo. after Lease Commencement or Stabilization. Assume Jun-14 start.

TMG rent payments there later of commencement c

**Proposed Development Program**

Office - sf

16,936

19,515

SFWP figures are from cl area (does not include co Use smaller of two figure: SFWP figure excludes ad their cash flow shows 8,3

Retail - sf (a)

8,3256,800

Subtotal - Occupied Area

25,261

26,315

Maritime - sf

6,000

2,400

Parking for tenants - spaces (b)

0

60

Parking for events - spaces (b)

24 self-park / 55 valet

40

Development Hard Costs

\$3,101,249

Impact fees

Total Development Costs

\$10,572,480

\$6,877,401

TMG assumes no office i Calculation by BAE per in includes leasing commiss

**Revenue Assumptions**

Office - rent psf/yr NNN

\$40

\$40

SFWP assumes occupan year at 33%. TMG assumi construction schedule.

Office - increases

3% per year, increased every 5 years.

5 year term; \$1/yr increase; TI at vacancy \$30/sf; Leasing \$15.75; Market 3%/yr growth.

Re TMG, formula has 2.5 every 5 years to figure ba growth (actual TMG figure assumptions with 3% CPI all TI costs. Leasing com 3% per year escalation. B TMG's unexplained office 2020.

Office reimbursements

Shown in cash flow, no explanation in text.

Shown in cash flow, no explanation in text.

Use TMG 2015 starting fig slightly from figures in TM Lump sum - no detail on #

Retail - rent psf/yr NNN

\$50

\$5,000 food truck rent/month

Retail - increases

3% per year

3% per year

Maritime - rent psf/yr

Parking Revenue - Monthly

Shown in cash flow.

\$200

Parking Revenue - Events

Shown in cash flow.

\$35/game \* 68 non-weekday games

Office vacancy

3%

5%

No rent assumption for TI Assume 3% per year esci Assume 3% per year esci Used 5% for both for cons



**Comparison of Phase 1 Cash Flow Model Assumptions, Pier 38 RFP Submittals**

6/12/12

**CONFIDENTIAL - CONSULTANT DRAFT - FOR INTERNAL USE ONLY****PROPOSAL ASSUMPTIONS***Note: Phase 2 proposals excluded.***San Francisco****Waterfront Ptrs III, LLC****TMG Pier 38 Ptrs, LLC****BAE Notes / Modeling A****Operating Expense Assumptions**

General	Lump-sum figure identified in cash flow model.	Line item figures provided in cash flow model.	Assume all construction p are (2014) are covered by
CPI Adjustment	None identified	3% per year, 2% for property tax.	TMG assumptions applie

**Rental Payments to Port**

Monthly Base Rent	\$5,000 during construction (12 mos); \$ 50/sf/yr for occupied (office+retail) areas thereafter.	\$25,000	
Base Rent Increases	None	5% ea. 5 years.	For SFWP assume minim
Rent Credit Formula (c)	None	Hard cost (including substructure) at negotiated rate, monthly credit against 50% base rent.	
Rent Credit Monthly Calculation	\$16,162	\$10,337	(BAE calculation for comp on \$3,878,900 amortizati submittal communication. costs, rate in footnote (e), consistency with term of \$ amount or \$12,500 at 50%
Exercise: Calculated Straight-Line During Term (information only, provided as comparison with figures presented by submitters).			
Amortization - Monthly: Proposed	\$0	\$12,500	
Amortization Ends	N/A (no rent credit)	After lease expiration.	
Percentage Rent	50% of gross parking receipts.	0%	SFWP per post-submittal proposed "transfer fee" in excludes calculation of pa proceeds proposed in eve 4%
Discount Rate for NPV Calculation (BAE Assumption)			

**Other**

ENA Payments	None in Phase 1 (identified for Phase 2)	\$15,000	TMG ENA payment show, deposit excluded from ca
Security Deposit	None identified	2 months rent	

(a) Assumes larger area of range identified for restaurants spaces #1, #2, but smaller space for #3 (otherwise # 3 assumes combination with existing Pier 40 restaurant space leased to another tenant).

(b) Assumes smaller number of range of identified parking spaces.

(c) Assume rate of return for amortization at: 0%

Sources: SF Waterfront Partners III, LLC; TMG Pier 38 Partners, LLC; BAE, 2013.



---

**Pier 38 Phase 1 Development Budget Comparison**

---

**CONFIDENTIAL - CONSULTANT DRAFT - FOR INTERNAL USE ONLY**

---

	SFWP	per sf	%	TMG	per sf	%
<b>Development Program (a)</b>						
Office	16,936			19,515		
Retail	<u>8,325</u>			<u>6,800</u>		
	<b>25,261</b>			<b>26,315</b>		
<b>Development Budget (b)</b>						
Hard Construction	\$6,591,866	\$261	62%	\$3,101,249	\$118	45%
Soft Construction (c)	2,173,265	\$86	21%	1,360,572	\$52	20%
Tenant Improvements	738,678	\$29	7%	603,014	\$23	9%
A&E (w/ Contingency)	756,061	\$30	7%	444,000	\$17	6%
City Fees	0	\$0	0%	216,000	\$8	3%
Leasing Commissions	252,610	\$10	2%	1,152,566	\$44	17%
Port Rent - Constr.	60,000	\$2	1%	0	\$0	0%
	<b>\$10,572,480</b>	<b>\$419</b>	<b>100%</b>	<b>\$6,877,401</b>	<b>\$261</b>	<b>100%</b>

(a) Includes occupiable areas only, excludes service areas such as parking, breezeway apron, docks.

(b) Per sf costs calculated on total occupiable area.

(c) TMG does not break-out developer fee or costs, so SFWP figures included in soft costs.

---

Sources: SFWP; TMG; BAE, 2013.





Projected Phase 1 Project Cash Flow, 2014 - 2033 San Francisco Waterfront Partners

CONSULTANT DRAFT - FOR INTERNAL USE ONLY

See assumptions worksheet for development program, rental rates, proposed lease terms, and other key assumptions for cash flow model.



**CONFIDENTIAL**

**CONFIDENTIAL**

## OPERATIONS

## Revenues

Expenses

### Net Operating Income

1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 26

See assumptions worksheet

Sources: SFWP; BAE, 2013.



**TMG Cash Flow:**
**Projected Phase 1 Project Cash Flow, 2014 - 2033, TMG Pier 38 Partners, LLC**
**CONFIDENTIAL**
**CONSULTANT DRAFT - FOR INTERNAL USE ONLY**

	<u>Total</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>
<b>DEVELOPMENT</b>								
<b>Sources of Funding</b>								
Equity	\$0							
Debt	0	No funding information provided in submittal.						
Other	0							
	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Uses of Funding</b>								
Hard Construction	\$3,101,249	\$3,101,249						
Soft Construction	1,360,572	1,315,688	25,293					5,592
Tenant Improvements	603,014	603,014						
A&E	444,000	444,000						
City Fees	216,000	216,000						
Leasing Commissions	1,152,566	316,582				238,635		
Port Rent - Constr.	0							
	\$6,877,401	\$5,996,533	\$25,293	\$0	\$0	\$0	\$238,635	\$5,592
<b>OPERATIONS</b>								
<b>Revenues</b>								
Office Base Rent	\$19,240,090	\$0	\$780,600	\$800,115	\$819,630	\$839,145	\$858,660	\$904,929
(Less Vacancy)	(962,004)	0	(39,030)	(40,006)	(40,982)	(41,957)	(42,933)	(45,246)
Office Exp. Reimb.	4,488,560	0	178,707	184,068	189,590	195,278	201,136	207,170
Retail (Food Truck)	1,552,222	0	61,800	63,654	65,564	67,531	69,556	71,643
Maritime	0	0	0	0	0	0	0	0
Parking - Tenants	301,402	0	12,000	12,360	12,731	13,113	13,506	13,911
Parking - Events	2,391,126	0	95,200	98,056	100,998	104,028	107,148	110,363
Other	0	0	0	0	0	0	0	0
	\$27,011,396	\$0	\$1,089,277	\$1,118,247	\$1,147,531	\$1,177,137	\$1,207,074	\$1,262,771
<b>Expenses</b>								
Utilities	(\$3,923,657)	\$0	(\$156,216)	(\$160,902)	(\$165,730)	(\$170,701)	(\$175,822)	(\$181,097)
Janitorial	(2,589,599)	0	(103,102)	(106,195)	(109,381)	(112,662)	(116,042)	(119,523)
Repairs & Maint.	(3,138,930)	0	(124,973)	(128,722)	(132,584)	(136,561)	(140,658)	(144,878)
Security	(1,020,147)	0	(40,616)	(41,834)	(43,090)	(44,382)	(45,714)	(47,085)
Insurance	(778,045)	0	(30,977)	(31,906)	(32,863)	(33,849)	(34,865)	(35,911)
Property Taxes	(416,520)	0	(18,236)	(18,601)	(18,973)	(19,352)	(19,739)	(20,134)
Mgt. & Admin.	(2,010,404)	0	(80,042)	(82,443)	(84,917)	(87,464)	(90,088)	(92,791)
Port Base Rent	(6,165,188)	0	(300,000)	(300,000)	(300,000)	(300,000)	(315,000)	(315,000)
(Less Amortization)	2,850,000	0	150,000	150,000	150,000	150,000	150,000	150,000
Port % Rent	0	0	0	0	0	0	0	0
	(\$17,192,491)	\$0	(\$704,162)	(\$720,605)	(\$737,537)	(\$754,973)	(\$787,929)	(\$806,419)
<b>Net Operating Income</b>	<b>\$9,818,906</b>	<b>\$0</b>	<b>\$385,115</b>	<b>\$397,643</b>	<b>\$409,994</b>	<b>\$422,164</b>	<b>\$419,146</b>	<b>\$456,351</b>
<b>Return Calculations</b>								
Unrealized Rent Credit	\$3,277,401	106%						
NPV Port Rent/Ann'l Rent	\$2,244,920		\$150,000	\$150,000	\$150,000	\$150,000	\$165,000	\$165,000
Unlever'd IRR/Net Cash	3.9% (\$5,996,533)		\$359,822	\$397,643	\$409,994	\$422,164	\$180,511	\$450,759
% Return on Total Cost			6.4%	6.6%	6.8%	7.0%	6.7%	7.3%

See assumptions worksheet for development program, rental rates, proposed lease terms, and other key assumptions for cash flow model.

Sources: SFWP, BAE, 2013.



**TMG Cash Flow:****CONFIDENTIAL**

	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	
<b>DEVELOPMENT</b>									
<b>Sources of Funding</b>									
Equity									
Debt									
Other									
	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
<b>Uses of Funding</b>									
Hard Construction									
Soft Construction		6,483					7,516		
Tenant Improvements									
A&E									
City Fees									
Leasing Commissions	276,643					320,706			
Port Rent - Constr.									
	\$276,643	\$6,483	\$0	\$0	\$0	\$320,706	\$7,516	\$0	
<b>OPERATIONS</b>									
<b>Revenues</b>									
Office Base Rent	\$982,989	\$1,049,061	\$1,068,576	\$1,088,091	\$1,107,606	\$1,127,121	\$1,216,149	\$1,235,664	\$1.2
(Less Vacancy)	(49,149)	(52,453)	(53,429)	(54,405)	(55,380)	(56,356)	(60,807)	(61,783)	(
Office Exp. Reimb.	233,172	240,167	247,372	254,793	262,437	270,310	278,420	286,772	2
Retail (Food Truck)	80,635	83,054	85,546	88,112	90,755	93,478	96,282	99,171	1
Maritime	0	0	0	0	0	0	0	0	
Parking - Tenants	15,657	16,127	16,611	17,109	17,622	18,151	18,696	19,256	
Parking - Events	124,214	127,941	131,779	135,732	139,804	143,999	148,318	152,768	1
Other	0	0	0	0	0	0	0	0	
	\$1,387,519	\$1,463,897	\$1,496,455	\$1,529,434	\$1,562,845	\$1,596,703	\$1,697,058	\$1,731,849	\$1.7
<b>Expenses</b>									
Utilities	(\$203,826)	(\$209,941)	(\$216,239)	(\$222,727)	(\$229,408)	(\$236,291)	(\$243,379)	(\$250,681)	(\$2
Janitorial	(134,525)	(138,560)	(142,717)	(146,999)	(151,409)	(155,951)	(160,630)	(165,448)	(1
Repairs & Maint.	(163,061)	(167,953)	(172,992)	(178,182)	(183,527)	(189,033)	(194,704)	(200,545)	(2
Security	(52,995)	(54,585)	(56,222)	(57,909)	(59,646)	(61,435)	(63,278)	(65,177)	(
Insurance	(40,418)	(41,630)	(42,879)	(44,166)	(45,491)	(46,855)	(48,261)	(49,709)	(
Property Taxes	(21,794)	(22,230)	(22,674)	(23,128)	(23,590)	(24,062)	(24,543)	(25,034)	(
Mgt. & Admin.	(104,437)	(107,570)	(110,797)	(114,121)	(117,544)	(121,071)	(124,703)	(128,444)	(1
Port Base Rent	(330,750)	(330,750)	(330,750)	(330,750)	(330,750)	(347,288)	(347,288)	(347,288)	(3
(Less Amortization)	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	1
Port % Rent	0	0	0	0	0	0	0	0	
	(\$901,806)	(\$923,219)	(\$945,271)	(\$967,980)	(\$991,366)	(\$1,031,986)	(\$1,056,786)	(\$1,082,326)	(\$1.1
<b>Net Operating Income</b>	<b>\$485,713</b>	<b>\$540,678</b>	<b>\$551,184</b>	<b>\$561,454</b>	<b>\$571,480</b>	<b>\$564,717</b>	<b>\$640,272</b>	<b>\$649,523</b>	<b>\$6</b>
<b>Return Calculations</b>									
Unrealized Rent Credit									
NPV Port Rent/Ann'l Rent	\$180,750	\$180,750	\$180,750	\$180,750	\$180,750	\$197,288	\$197,288	\$197,288	\$1
Unlever'd IRR/Net Cash	\$209,070	\$534,195	\$551,184	\$561,454	\$571,480	\$244,011	\$632,756	\$649,523	\$6
% Return on Total Cost	7.4%	8.3%	8.4%	8.6%	8.7%	8.2%	9.3%	9.4%	

See assumptions workshe

Sources: SFWP; BAE, 2013.





**Attachment 7 -- BAE Memorandum: Pier 38 Financial Feasibility Scenarios**



bae

## Pier 38 Bulkhead and Whole Building Feasibility Analysis

Prepared for Port of San Francisco  
August 2013





# bae urban economics

August 20, 2013

John Doll  
Development Project Manager  
Port of San Francisco  
Pier 1, The Embarcadero  
San Francisco, CA 94111

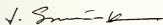
Dear John:

Enclosed please find a full report analyzing the financial feasibility of scenarios related to Pier 38 renovation and reuse. Per your request, we have analyzed the feasibility and likely Port revenue from renovating the Historic Bulkhead only (also known as Bulkhead-Only) as well as renovating the entire building.

We have enjoyed working with you and other Port staff.

Please let us know if you have any questions or comments.

Sincerely,



Janet Smith-Heimer, MBA  
Managing Principal, BAE

San Francisco  
1285 56<sup>th</sup> Street  
Second Floor  
Emeryville, CA 94608  
510.547.9380

Sacramento  
803 2<sup>nd</sup> Street  
Suite A  
Davis, CA 95616  
930.750.2195

Los Angeles  
9405 Wilshire Blvd  
Suite 291  
Los Angeles, CA 90036  
213.471.2666

Washington DC  
1436 U Street NW  
Suite 403  
Washington, DC 20009  
202.588.8945

New York City  
121 West 27<sup>th</sup> Street  
Suite 705  
New York, NY 10001  
212.683.4486



# Table of Contents

INTRODUCTION AND STUDY PURPOSE.....	1
Introduction.....	1
Definition of Two Scenarios .....	2
Methodology .....	3
Description of Site and Vicinity.....	3
MARKET OVERVIEW .....	5
Office Market .....	5
Retail Market .....	9
Parking Garage Market.....	11
Marina Market.....	12
FINANCIAL FEASIBILITY OF BULKHEAD-ONLY PROJECT.....	13
Concept for Bulkhead-Only Reuse.....	13
Pro Forma Financial Analysis.....	16
WHOLE BUILDING FEASIBILITY ANALYSIS .....	18
Concept for Whole Building Reuse.....	18
Pro Forma Financial Analysis.....	22
APPENDIX A: SITE LOCATION AND OFFICE SUBMARKET .....	25
APPENDIX B: RECENT OFFICE LEASES IN VICINITY.....	26
APPENDIX C: CURRENT OFFICE ASKING LEASE RATES .....	27
APPENDIX D: ASKING RETAIL / RESTAURANT RENTS.....	28
APPENDIX E: PARKING GARAGE RENTS .....	29
APPENDIX F: MARINA CONSTRUCTION COST ESTIMATE .....	30





# INTRODUCTION AND STUDY METHODOLOGY

## Introduction

Pier 38, located on the San Francisco waterfront near the renowned South of Market (SoMa) neighborhood, consists of a small historic Bulkhead building visible from the Embarcadero, and a large non-historic “shed” structure resting on a pier substructure. Pier 38 has a long history of waterfront commerce, and was one of the primary early transfer points between ocean cargo carriers and rail transport, with the shed portion of the Pier 38 structure serving as an indoor rail transfer point (with rail cars entering onto the pier to receive cargo).

The Port of San Francisco has issued a Request for Proposals for Pier 38, specifically for renovation of only the historic Bulkhead portion of the structure. This approach would grant rights to renovate only the historic Bulkhead, with the larger non-historic shed structure remaining partially mothballed. This approach was taken by the Port due to concerns that renovating the shed portion of Pier 38 would trigger high substructure repair costs, high building and pier seismic retrofit costs, and may be premature given planning underway to resolve climate change adaptation policies regarding the waterfront.

In early 2013, two developer submittals were received by the Port for Pier 38 in response to the RFP. While both developers proposed a Bulkhead-Only renovation scheme per the RFP, both developer submittals also envisioned the larger opportunity of full structure renovation and occupancy as more enticing. Moreover, both submitters have requested to a long-term lease for the entire property if the Port elected to make it all available. Thus, each of the developer submittals framed their reuse strategy for the Bulkhead in terms of a more-or-less interim use, with suggestions of greater feasibility if the shed were included in the offering as a Whole Building.

BAE was engaged to assist the Port and its stakeholders in evaluating the developer submittals for the Bulkhead-only proposals, as well as assess whether to limit the planned lease of Pier 38 to just the Bulkhead or to relax this objective and consider leasing the entire property. A separate memorandum has been finalized regarding BAE's evaluation of the RFP submittals. This report provides a summary of BAE's feasibility analysis for the Pier 38 reuse project, and directly addresses the question of how the Port's revenue is affected by the choice of a Bulkhead-Only or Whole Building renovation project from a financial standpoint. While this report borrows some development cost data from the developer submittals, it otherwise takes a “clean slate” approach to formulating reuse scenarios for Bulkhead-Only and Whole Building project concepts and analysis.



## Definition of Two Scenarios

For purposes of this report, it is important to distinguish between the Bulkhead-Only and Whole Building scenarios being analyzed.

### ***Bulkhead-Only***

The Bulkhead-Only takes the approach that the Port wishes to maximize revenue and renovation quality for the Bulkhead, but mothball the shed of Pier 38 and not undertake renovation to this portion of the building or its pier substructure, for an indeterminate period of time. Thus, in this scenario, the developer would invest in the Bulkhead only, to full Secretary's Standards for historic preservation, but likely under the terms of a 10 to 20 year leasehold, which is insufficient length of lease to package and sell historic tax credits. This approach would also limit occupancy of the property to less than the occupancy threshold which would trigger the requirement for a seismic retrofit, an expensive undertaking for Pier 38. Moreover, although this scenario would result in adequate finishes and a rentable space in the Bulkhead, the scale of the Bulkhead and the remaining mothballed shed used only as an indoor parking garage (see below), will diminish the top Class A competitiveness of this facility for office users. The Bulkhead-only scenario would result in marketable space, but may not likely achieve top-end office rents for signature space related to other projects on the San Francisco waterfront. Fenced off portions, lack of scaled project amenities, and other limits on investment under this scenario would result in this situation.

It should be noted that this type of office space and accompanying retail space is also in high demand in San Francisco, and would experience market absorption at Pier 38. The question becomes one of how the level of investment in finishes, floor plan functionality, and ancillary uses is organized in a Bulkhead-Only scenario. Put another way, there is a difference in a 10 or 20 year leasehold improvement for a portion of a building only, without historic tax credit funding, and a full renovation scheme with all improvements needed to fully occupy the building to maximum use meeting seismic threshold conditions.

While the two developer submittals dealt with this Bulkhead-Only request differently, with one developer proposing more or less fully leasable, fully improved Bulkhead space to a finish quality commensurate with the mid-lease rate level implied, the other developer downscaled initial improvements, proposing some office and a food truck area, with commensurately less investment. This approach makes sense if the Bulkhead is considered a first-phase and a more or less interim use.

The BAE analysis in this report does not assess interim uses for the Bulkhead. Instead, it approaches this question as two distinct scenarios – Bulkhead-Only or Whole Building, to draw the comparison of how these two distinct asset management strategies would play out for the Port's revenue stream. It assumes one-time Bulkhead-Only building renovation, to the level sufficient to lease the space to start-ups, co-working facilities, and other users typical of a 10 year lease deal without signature building finishes and amenities such as those present at Pier 1 and Pier 1.5 -5.



## **Whole Building**

In contrast to the above scenario for the Bulkhead-Only, this scenario assumes that the Port allows a Whole Building lease, with the whole building including its pier substructure as the subject property of a long-term lease arrangement. In this scenario, the long-term lease would be of sufficient length to operationalize historic tax credits as a financing mechanism, and the developer would set about to improve the Bulkhead, the Shed, and the underlying pier structure fully, according to all repair and seismic reinforcement tasks outlined in prior analyses commissioned by the Port for Pier 38. This scenario would also include a small marina, if feasible, to enhance long-term maritime use.

The Whole Building scenario has higher development costs per square foot than the Bulkhead-Only scenario, due to the seismic retrofitting, substructure repair, and logical high office and retail finishes. This scenario would likely yield commensurately higher rents to the developer (due to full finishes, better floor plan functionality, and the ability to offer a signature waterfront address with all on-site amenities).

## **Methodology**

The methodology used to evaluate the feasibility of a Bulkhead-Only and a Whole Building reuse of Pier 38 involved the following steps:

- Conduct overview of current and future market conditions for office, retail/restaurant, marina, and parking garage uses
- Review a Pier 38 seismic retrofit and cost study completed by Structus, Inc. dated February 2013
- Develop project concepts for the Bulkhead-Only and Whole Building scenarios which optimize market demand and minimize other development constraints
- Formulate pro formas to analyze the financial feasibility and potential Port lease revenue for the Bulkhead-Only and Whole Building scenarios
- Draw conclusions regarding feasibility of Bulkhead-Only and Whole Building reuse for Pier 38 from the Port's perspective

## **Description of Site and Vicinity**

### ***Location and Surrounding Land Uses***

Pier 38 is located at 801 The Embarcadero at Townsend Street, at the edge of the South of Market (SoMa) mixed-use district. As shown in Appendix A, Pier 38 is within a quarter mile of both AT&T Park to the south, and Piers 30-32 to the north (location of the proposed Warrior's Arena complex).

Current land uses surrounding Pier 38 contain a mix of residential, commercial, maritime, and sports-related uses. To the immediate north, the neighborhood includes the Embarcadero Promenade and 1.5-acre Brannan Street Wharf, which has recently been constructed on the former sites of Pier 34 and Pier 36. This park will feature a public green and interpretive exhibits. Together,



the Promenade and the new Park will attract visitors and local residents to the waterfront for weekday and weekend recreational activities.

The neighborhood known as South of Market (SoMa) is located to the west of Pier 38, consisting primarily of a mix of older and newly-developed mixed-use residential and commercial buildings and projects. To the south of Pier 38 lies Pier 40, which has additional retail and maritime-oriented commercial enterprises as well as the 700-slip marina known as South Beach Harbor.

### ***Transportation Access***

In addition to the Embarcadero, a major arterial running along the front of Pier 38, the site at present is well-served by MUNI bus service (80X and 82X lines) as well as the "T" and "N" surface Muni lines. Both the bus and MUNI lines stop at the Brannan Station just to the north of the property. With the completion of the Brannan Street Wharf and potential development of the Warriors complex, it is likely that the Brannan light rail station will be heavily used, with retail/restaurant space at Pier 38 benefiting from high visibility and strong transit access.

### ***Area Improvements***

Several emerging improvements to the area will strengthen the market demand for office, retail/restaurant, and parking at Pier 38. On a citywide level, the draft One Bay Area Plan anticipates that San Francisco will generate an additional 190,740 jobs by 2040, a 38 percent increase over current employment levels. In addition, the same Plan envisions that housing production will add 92,410 units over the same period, increasing demand for retail and recreation in San Francisco.

The proposed Warriors arena complex for Piers 30-32 (and Seawall Lot 330) envisions a 17,500-seat sports and entertainment arena with 105,000 square feet of retail and restaurants, 830 to 930 parking spaces, a practice training facility, a community room, 100 to 130 residential units, and a 200 to 250 room hotel. This new stadium arena, planned to hold more than 200 events per year, along with the already well-established AT&T Park for the San Francisco Giants, will generate substantial visitor traffic to the area, positioning retail/restaurant uses at Pier 38 for excellent market capture.

In sum, Pier 38's location on the water within SoMa between a popular AT&T Park and the planned Warrior's arena, along with the construction of the Brannan Street Wharf, will create very strong market potential for this property. These changes to the waterfront in 2013, have focused both the Port and the greater real estate community on this formerly underutilized segment of the waterfront.





# MARKET OVERVIEW

## Office Market

### Market Position

Pier 38 is located at the eastern end of the South of Market office submarket, as defined by Collier's International, a leading real estate brokerage firm. The SOMA East submarket is generally bounded by Spear Street to the east, the Embarcadero on the east and south, Fourth Street to the west, and Harrison and Folsom to the north. (See Appendix A for map).

### Office Market Trends

#### Office Inventory

As of the end of the first quarter 2013, downtown San Francisco had an inventory of 88.2 million net rentable square feet of office space. Of the total downtown market, approximately 5.2 million net rentable square feet were located in the SoMa East submarket. According to Collier's International, this submarket accounts for 5.9 percent of the total downtown San Francisco office space inventory. Outside San Francisco's Financial District, the South of Market East submarket is the second largest submarket after the Civic Center area.

**Table 1: Office Inventory for Downtown San Francisco, Q1 2013**

	Buildings		Net Rentable Sq. Ft.	
	Number	% of Downtown	Sq. Ft.	% of Downtown
SoMa East	56	9.2%	5,229,966	5.9%
San Francisco Downtown	610	100.0%	88,172,821	100.0%

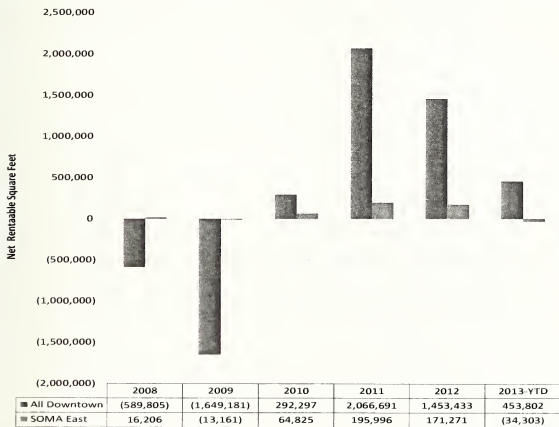
Sources: Collier's International, Inc.; BAE 2013.



### Net Absorption

Trends in net absorption demonstrate that the San Francisco office market has fully recovered from the Great Recession, making it one of the most dynamic and attractive office market for developers and investors in the nation<sup>1</sup>. After two years of negative or flat net absorption, the San Francisco office market recovered dramatically in 2011. Specifically, as shown below, net absorption was significantly negative in 2009 when a lack of leasing activity resulted in 1.7 million net rentable square feet added back to available inventory. In contrast, over the past full two years, the San Francisco office market has absorbed nearly 3.5 million net rentable square feet. As of the end of the first quarter 2013, the market has absorbed an additional 454,000 net rentable square feet, indicating continuing demand.

**Figure 1: Office Absorption, Downtown San Francisco and SoMa East, 2008 through Q1-2013**



Sources: Colliers International, BAE 2013.

<sup>1</sup> Net absorption is defined as the amount of office space occupied at the end of a period minus the amount occupied at the beginning of a period, taking into consideration office space vacated during the period. It is the best indicator of overall market demand for office space.

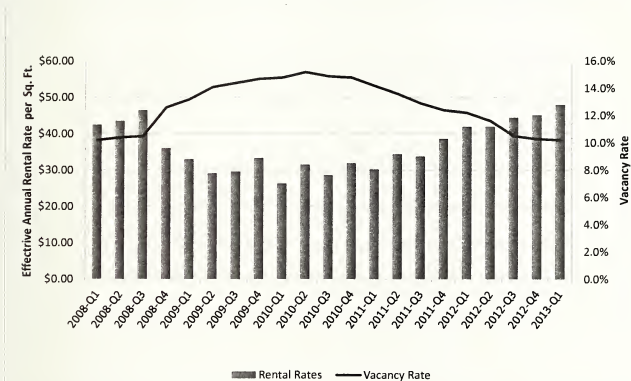


While the SOMA East office submarket comprised a small component of net absorption, it performed well during the great recession and recovery. During the recessionary years, net absorption was slightly positive or flat while the rest of the San Francisco market gave up large quantities of space. In the recovery years, SoMa East has experienced strong net absorption relative to its size.

### Vacancy and Rental Rates

The strength of downtown San Francisco and SoMa East office markets is evidenced in changes in vacancy and effective rental rates. As shown below, effective rental rates across downtown San Francisco have sharply escalated as vacancy rates have fallen, reflecting strong net absorption and lack of new supply. As of the end of the first quarter 2013, the average effective rental rate was \$47.97 per net rentable square foot – up by 82.0 percent from the average effective rental rate of \$26.35 recorded at the bottom of the market in the first quarter of 2010.

**Figure 2: Vacancy & Rental Rate Trends for Downtown San Francisco, 2008 through Q1-2013**

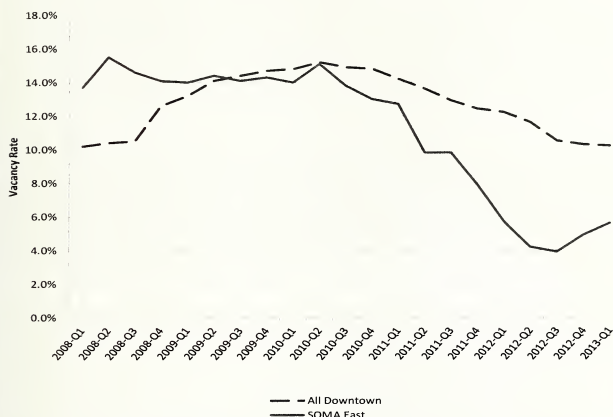


Sources: Colliers International; BAE 2013.

In terms of vacancy rates, the SoMa East submarket is among the best performing submarket within the downtown office market. At 5.6 percent vacancy as of the end of Q1 2013, SoMa East's rates dropped significantly below the average vacancy rate of 10.2 percent for office space across all of downtown San Francisco. This low vacancy rate for SoMa East reflects growth and strength of tech firms and other "creative" industries, and their preference for loft-style office facilities. Colliers does not publish lease rate trends for the SoMa East submarket, but these are assessed more specifically by BAE in the next section.



**Figure 3: Vacancy Rates, Downtown and SoMa East, 2008 through Q1 2013**



Sources: Colliers International; BAE 2013.

#### Office Lease Rates for SoMa East

For this report both recent actual lease rates, as well as asking lease rates on available spaces in SoMa East, were collected and analyzed. Recent actual office lease rates for several buildings in the vicinity of Pier 38 are shown in Appendix B. In summary, these lease transactions indicate a range of full service office rents occurring throughout 2012, from approximately \$45 per square foot at 2 Bryant Street, up to \$80 per square foot at recent higher-floor One Market office towers.

Current asking lease rates for vacant available office space throughout SoMa East are also shown in Appendix B. These rates, reflecting current 2013 values, likely more accurately reflect achievable rents for the Bulkhead-Only scenario than prior signed leases for this area. Asking rents cluster around the \$48 to \$52+/- per square foot range for recently renovated spaces in former loft-style industrial buildings. This rental range represents the likely rents that could be achieved in a renovated Bulkhead-Only scenario.

Perhaps most relevant as the upper bound of recent office leases is the expansion lease at the Ferry Building, for \$77 per square foot. Both Ferry Building and Piers 1.5- 5 management have suggested to BAE that when other blocks of space are available in early 2014, they hope to achieve from \$75





to nearly \$90+ per square foot on a full service basis. In addition, the leasing representative for ProLogis described asking rent for 15,000 square feet of space available at Pier 1 at \$68 per square foot full service. Thus, when the segment of the waterfront surrounding Pier 38 is fully redeveloped with the Warriors complex or another use on Piers 30-32, it is likely that Pier 38 will be able to compete with these higher-end office rates, with the Ferry Building and Piers 1.5 - 5 setting the upper boundary for this class of prime waterfront space. If a single or small number of signature companies were attracted to the full building renovation, achievable long-term full service office rents may approach \$70+ per square foot per year for a Whole Building concept at Pier 38.

### ***Conclusions***

Based on the above market indicators for office space in SoMa East, considered along with the benefits of the waterfront ambiance, BAE believes that the Bulkhead-Only project will experience strong market demand for suitably renovated office space. Achievable near-term full service office rents within the next 12 months or less (time frame for improvements envisioned) for the Bulkhead-Only project would likely be approximately \$50 to \$55 per square foot after updating and code compliance improvements are completed.

The Whole Building scenario would take 18 to 24 months to implement, with this time frame bringing more certainty regarding the Warrior's planned project at Piers 30-32 project, as well as leasing for the Whole Building commencing after the Brannan Street Wharf has established itself as an attraction for residents and visitors. Thus, with this newly-revitalizing segment of the waterfront, and a whole building under renovation to high finishes, it is likely that a Whole Building scenario could achieve higher rent levels in keeping with or just below signature office spaces such as those at Pier 1, Pier 1.5 -5, and the Ferry Building. Thus, BAE's analysis for the Whole Building scenario assumes a relatively conservative signature office space rent of \$70 per square foot.

## **Retail Market**

### ***Market Position***

According to Terranomics (a leading retail brokerage firm in the Bay Area, Pier 38 is located the City Center submarket. Existing retail most immediate to Pier 38 is concentrated to the west between Second and Fourth Streets from Folsom to King, and along King near AT&T Park. There is limited neighborhood serving retail along a block-long stretch of Brannan between the Embarcadero and Delancy Street.

### ***Retail Market Trends***

San Francisco enjoys an exceptionally strong retail market; Terranomics reports that San Francisco had a total inventory of approximately 4.1 M square feet of retail space with a 4.3 percent vacancy rate at the end of Q1 2013.



**Table 2: Retail Space Inventory, San Francisco by Submarket, Q1 2013**

<b>Submarket</b>	<b>Total Inventory</b>	<b>Total Vacant</b>	<b>Percent Vacant</b>	<b>Average Asking Rate</b>
City Center	2,064,584	124,419	6.0%	\$52.84
Southwest	1,565,885	50,204	3.2%	\$31.43
Southeast	465,531	1,987	0.4%	\$66.00
<b>Total</b>	<b>4,096,000</b>	<b>176,610</b>	<b>4.3%</b>	<b>\$46.15</b>

Sources: Terranomics, Inc. 2013; BAE 2013.

Pier 38's retail competitive position is most likely to be maximized through a range of casual to possibly fine dining, serving nearby residents, sports event-goers, workers, and tourists. Due to the distance between Pier 38 and concentrations of employment in SoMa and beyond, Pier 38 is likely to attract some lunch-time dining, but is more likely to position itself as a dining /bar spot for after work hours, as well as before and after sports events at AT&T Park and at the future Warriors arena site. In addition, daytime casual food service for Brannan Street Wharf visitors during both weekday and weekend periods is likely to experience moderate to strong demand.

There is limited information available regarding current retail and restaurant rents achievable at Pier 38's prime waterfront location. Although asking retail rents in the SoMa area ranged from \$28 to \$50 per square foot per year in 2012, landlords of recently leased restaurant spaces at Pier 1 and Piers 1.5 – 5 report rents approaching \$100 per square foot per year<sup>2</sup>. BAE also compiled asking retail and restaurant rents as shown in Appendix D. Due to the low vacancy rates and limited supply, the area representing SoMa has few available retail/restaurant spaces. Asking rents range from \$28 to \$50 per square foot (terms unknown).

A potential Pier 38 tenant for the Whole Building concept (with more extensive space available for this use) might include a large restaurant catering to sports enthusiasts serving modern-upscale food. An example of this concept is a popular restaurant located in the LA Live complex in downtown Los Angeles, called The Yard House. This facility illustrates how a relatively large restaurant/entertainment concept with sports theme, also offering strongly conceived, quality restaurant meals and lively nighttime bar ambiance within its footprint, can become a major destination. This Yard House combination concept has an average footprint of 10,500 square feet, according to investor reports, which could be accommodated in the existing retail space at the north end of the pier, with outdoor seating facing the Brannan Street Wharf. According to investor reports, The Yard House typically generates \$8.5 million in revenue annually, equivalent to almost \$810 in sales per square foot for the company's average restaurant unit. If this tenant type were attracted to

<sup>2</sup> These could not be verified for this analysis of Pier 38 with leasing agents.



Pier 38, it is likely that rents of at least \$60 per square foot NNN could be achieved, and are assumed in the Whole Building's pro formas<sup>3</sup>.

### **Conclusions**

Due to current strong high demand, low vacancy rates, and strong locational advantages of the Pier 38 site, BAE has concluded that Bulkhead-Only reuse for restaurants and cafes should be in demand and able to achieve rents of at least \$48 per square foot NNN.

If the Whole Building scenario were offered, with full renovation of the facility including the shed, and commensurate signature office users, higher rent levels of \$60 per square foot or more for restaurant space in the project should be achievable. These rent levels will be further supported once this segment of the waterfront is fully redeveloped, driving demand for a sports-entertainment related venue such as The Yard House example.

### **Parking Garage Market**

For this report indoor parking garage rents were also compiled because the Bulkhead-Only format allows for parking in the shed structure today, even if no other renovation to the shed were undertaken. BAE calculations, described below in more detail, estimate that up to 80 indoor spaces could be accommodated along with bulkhead reuse, without triggering seismic upgrade requirements.

A comprehensive list of existing parking garages throughout SoMa is shown in Appendix E. As indicated, while rates vary depending on circumstances in general daily rates are \$15 to \$25, with game days for garages attracting AT&T attendees increasing to \$30 to \$50 or more. Monthly rates range from \$250 to \$400, with One Market charging up to \$600 per month for premium spaces.

### **Conclusions**

Pier 38 is likely to experience moderate to strong demand for daily and monthly rentals, with very strong demand on game days and other waterfront event days if open for business at those times. This use is only assumed for the Bulkhead-Only project, where it offsets renovation costs and can provide a much-needed stream of cash flow to the developer, supporting rent payments to the Port.

---

<sup>3</sup> It should be noted that this rent assumption, which would likely include base rent and percent of sales rent in its total, is less than 7.5% of the average sales per square foot cited by The Yard House. This relationship between rent costs and sales revenue, is directly in line with typical restaurant who report that rent costs should be less than 9% of revenue to maintain overall feasible operating costs for the restaurant operator.



## **Marina Market**

A small marine for private-owned boats in the 44' to 60' length has been suggested by both developer submittals as a good adjunct use for the Whole Building reuse scenario. This use would enhance existing maritime facilities at Pier 38, retain a Trust-consistent use, and continue maritime access. Due to the expense of creating a new marina, this use is considered only as part of the Whole Building reuse scenario.

### ***Marina Demand***

Demand for boating slips is high in San Francisco. According to the San Francisco Port Maritime Division, all four marinas in the City, including South Beach Harbor at Pier 40, the San Francisco Marina, Fisherman's Wharf at Pier 39, and the commercial fishing marina report very high occupancy rates. At South Beach Harbor, directly south of Pier 38, there are 700 slips, with almost all slips rented on a monthly basis. According to an interview conducted by BAE with South Beach Harbor management, the monthly slips have a current waiting list of over 1,350 people, and are in very high demand. According to the Harbor Master, the average turnover is approximately 4 slips per month, and the average wait time can range from eight to 12 years for a permanent slip at the marina. Demand for both monthly and daily slip rentals is particularly high at South Beach because its waters are relatively well protected from waves and wind, in contrast to marina locations to the north of the Bay Bridge.

In addition, Pier 38's position between AT&T Park and the proposed Warriors arena makes this an ideal location for transient users, who typically stay for a day or weekend. At South Beach Harbor, there are only 20 guest slips set aside for transient use, while over 275,000 transient users are reported to stop at South Beach Harbor annually. The Harbor Master maintains that reservations for guest slips fill up quickly, especially during Giants home games and on weekends, and demand is likely to increase year-round if the Warriors arena is built. In addition, transient users pay higher rates than are typically charged for monthly rentals, and represent a lucrative market for a Pier 38 marina.

### ***Rental Rates***

For permanent slips, rents are charged per linear foot per month, with rates for 40' to 60' boats at South Beach Harbor ranging from \$13.16 to \$16.10 per linear foot per month (i.e., \$550 to \$966 per month). Rates are generally higher for guest users, who pay hourly or daily. Daily rates at South Beach range from \$50 to \$75 per day. The Harbor Master estimates that the market could support a 20 percent increase in prices at Pier 38, especially a new floating dock with state-of-the-art facilities. Thus, the pro forma with a marina shown in the next section assumes a 20 percent increase above South Beach Harbor's current rates, applied to both daily and monthly rental rates.





# FINANCIAL FEASIBILITY OF BULKHEAD-ONLY PROJECT

## Concept for Bulkhead-Only Reuse

This chapter examines the financial feasibility and potential revenue stream to the Port of San Francisco for a Bulkhead-Only reuse. The analysis below explicitly address the question of the highest and best use in financial terms, of a Bulkhead-Only project, with no other reuse of the shed except limited indoor garage parking and a public access passageway.

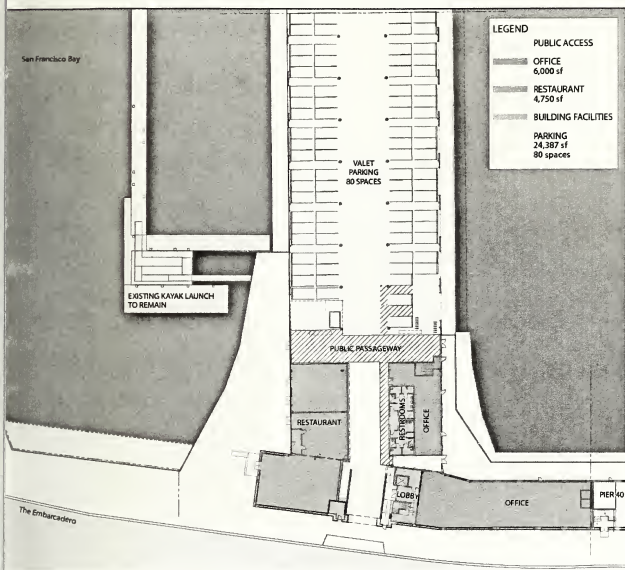
Special care was taken in formulating the BAE Bulkhead-Only scenario. BAE evaluated both developer submittals to the Request for Proposals and is very familiar with the concepts proposed by both San Francisco Pacific Waterfront Partners (PWP), and TMG. In PWP's case, the proposal essentially sought to improve the Bulkhead with semi-permanent interior renovations, while also allowing for a mix of uses and parking, resulting in total occupancy calculations which fall just below the threshold that would trigger seismic upgrades to the pier and structures. However, the PWP scenario does not appear to maximize parking garage efficiency, reducing potential revenue streams. In addition, this proposal envisions relatively high office rents above \$70 per square foot in the Bulkhead-Only only scenario, which are not clearly achievable at the level of investment offered. In contrast, the TMG scenario proposes far lower improvement costs, also carefully allowing for occupancy and load factors that were proposed to fall below seismic improvement thresholds. This lower cost scenario envisioned modest office rents of \$48 per square foot, and an anchor food truck and eating complex.<sup>4</sup> Both proposals envisioned a similar configuration of office space in the Bulkhead, including all of the second floor and mezzanine levels as had been previously occupied. TMG has a more efficient parking garage layout, allowing for more spaces than PWP's garage portion.

BAE analyzed both of these scenarios, and constructed an occupancy and load model to calculate maximum square footage possible while avoiding seismic upgrade requirements. BAE also devoted space in the Bulkhead to higher-value uses. In essence, BAE borrowed the "best of both" developer proposals, with less restaurant space than PWPs (just the existing restaurant-style room with 6,800 square feet), maximum office space, public access through the back end of the garage area in the shed (rather than further back around the entire structure), and the TMG layout for parking garage spaces (which generate maximum revenue at minimum development cost). Rents for office space (at \$52 per square foot) and restaurant space (at \$48 per square foot) are in keeping with modestly-finished space throughout the SoMa area, but do not reflect signature office or large-scale destination restaurants. The Bulkhead-Only scenario floorplan is shown on the following two pages, followed by a detailed pro forma financial analysis.

---

<sup>4</sup> It should be noted that TMG stated in their interview that if truly just Bulkhead-Only is offered, they may revisit this proposal and go to an upgraded more permanent improvement concept, with more finished restaurant spaces assuming that this does not trigger a seismic upgrade.

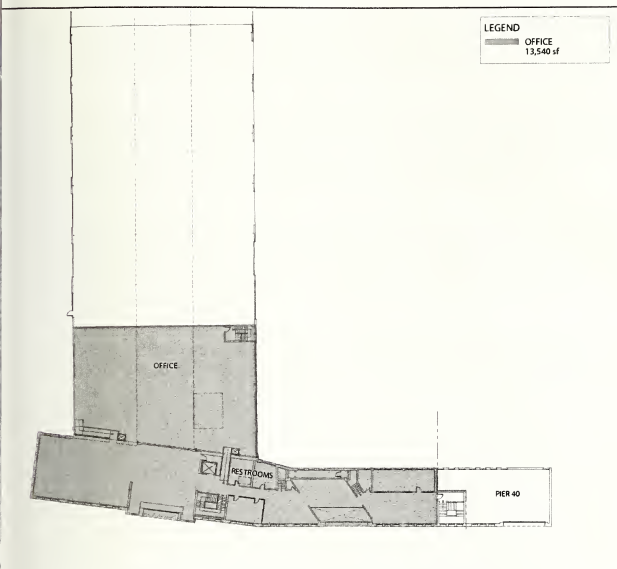




8  
ative 1: Bulkhead Only







3  
ative 1: Bulkhead Only





## Pro Forma Financial Analysis

As shown on the next page, the Bulkhead-Only only scenario with a mix of office, restaurant, and parking garage uses, while also optimizing existing space and avoiding the threshold for triggering seismic retrofit to the property, can generate substantial income to the Port of San Francisco.

Depending on the rent credits negotiated and the lease term for a Bulkhead-Only only scenario, the Port could earn upwards of \$690,000 per year on this project. This assumes the ground lease value is 10 percent of the project's residual value, and the rent credit against this amount is an amortization of a 20 lease for full development costs excluding profit.

This project scenario provides an affirmative answer to the question of "can a Bulkhead-Only only project make financial sense" while the majority of the shed is mothballed and not upgraded over a 20 year period. However, as a practical matter, it is challenging to envision a project with this set of limitations for a 20-year period, particularly the unused shed building without pier substructure or shed seismic improvements.

If the lease term were for just 10 years, and maximum rent credits were granted, the rent credit amount would double the amount shown, leaving approximately just \$105,000 per year in rent revenue to the Port.





# Project

Cost & Income Assumptions		Development Costs		Value Analysis	
<b>Office/Retail M&amp;D Costs</b>		<b>Office/Retail M&amp;D</b>		<b>Retail/Office M&amp;D</b>	
Hard Construction Costs (per sq. ft.) (e)	\$ 260	Hard Costs	\$ 6,315,400	Gross Income - Office	\$ 1,016,080
Soft Costs as % of Hard Costs (f)	25%	Soft Costs	\$ 1,578,850	Less: Vacancy - Office	\$ (50,804)
Developer Profit (% of Hard & Soft Costs)	15%	Developer Profit	\$ 1,184,138	Less: Op Expenses - Office	\$ (355,828)
Tenant Improvements, Restaurant (per sq.ft.)		Loan	\$ 6,710,113	NOI - Office	\$ 609,548
		Points	\$ 134,202	Capitalized Value - Office	\$ 10,160,890
Office Rent / Year (full service)	\$ 52.00	Interest	\$ 261,694		
Office Vacancy	5%	Subtotal Office	\$ 9,474,284		
Office Expenses (% of Gross Rev)	35%			Gross Income - Retail	\$ 190,000
Cap Rate (g)	6.0%	<b>Parking &amp; Public Access</b>		Less: Vacancy - Retail	\$ (9,500)
		Parking	\$ 300,000	Less: Op Expenses - Retail	\$ (5,700)
Retail Rent /Year (NNN)	\$ 40.00	Aprons	\$ 742,000	NOI - Retail	\$ 174,800
Retail Vacancy	5%	Public Walkway	\$ 140,000	Capitalized Value - Retail	\$ 3,178,182
Retail Mgt Exp (% of Rent)	3%	Marina	\$ -		
Cap Rate (h)	5.5%	Subtotal	\$ 1,182,000	Gross Income - Parking	\$ 557,000
		Developer Profit	\$ 177,300	Less: Vacancy - Parking	\$ (111,400)
<b>Parking Costs:</b>		Loan	\$ 1,004,700	Less: Op Expenses - Parking	\$ (30,000)
Cost per space (i)	\$ 3,750	Points	\$ 20,094	NOI - Parking	\$ 415,600
		Interest	\$ 39,183	Capitalized Value - Parking	\$ 8,312,000
Parking Rent (per month/space)	\$ 400	Subtotal Parking & Public Access	\$ 1,418,577	Total Capitalized Value	\$ 21,650,982
Parking Rent (per day/space)	\$ 25			Less Total Dev Costs	\$ (10,892,961)
% of parking spaces rented monthly	50%	<b>Total Development Costs</b>	<b>\$ 10,892,861</b>	Residual Value of Pier	\$ 10,758,120
% of parking spaces rented daily	50%			Residual Value Per Acre	\$ 3,164,153
Parking Vacancy	20%			Residual Value Per Sq Ft. of Pier	\$ 72.64
Parking Expenses (per year)	\$ 30,000			<b>Ground Lease Rev / Year @10% of Valu</b>	<b>\$ 1,075,812</b>
Cap Rate (j)	5.0%				
<b>Public Access Costs:</b>				<b>Potential Rent Credits</b>	
Apron (per sq ft.) (k)	\$ 53			Development Costs	\$ 10,892,861
Public access/walkway (per sq ft.) (l)	\$ 100			Less: Profit	\$ (1,184,138)
				Dev Costs Net of Profit	\$ 9,708,724
<b>Financing (All Components)</b>				Annual Rent Credit (m)	\$ 465,436
Loan to Cost Ratio	85%			Net Rent Payment to Port	\$ 590,376
Interest Rate	6.5%				
Period of Initial Loan (Months)	12				
Initial Construction Loan Fee (Points)	2.0%				
Average Outstanding Balance	60%				

occupancy load of the project below 634 occupants, in order to avoid triggering a seismic upgrade of the bulkhead and the pier. The occupancy load factors are based on Table 1004.1.1.

## Total occupants

195  
317  
512  
122

ed on TMG's proposal, which had a similar parking program.

ing the North and South aprons, connected by a public pathway through the interior of the shed. Improvements along the North and South apron include replacing the decking and asphalt he shed will be illuminated and be accessible to the public at all times.

development program.

thead for accessibility and code compliance, improvements within the shed to mitigate life safety hazards, and minor tenant improvements for office space. The hard cost estimate (an Francisco Waterfront Partner's submittal, adjusted downward to reflect no breezeway and less restaurant space

Personal services and are expressed as percentage of total hard costs.

ted February 2013 for San Francisco Class A, value-added office.

ted February 2013 for San Francisco Class A, high street retail, which includes specialty retail proposal

Lee Corporation and attached to the Creggan & D'Angelo report dated January 13, 2012.

ects  
er 20-year lease term.



# WHOLE BUILDING FEASIBILITY ANALYSIS

## Concept for Whole Building Reuse

The concept for Whole Building reuse of Pier 38 was developed with the aim of maximizing the return to the Port, while optimizing market demand and locational advantages of the property to attract signature office and restaurant tenants, and also meeting all public approvals requirements. In developing this program, BAE utilized the market information profiled earlier in this report. This resulted in assumptions for reuse including high-quality first-floor and mezzanine office space, ground floor large restaurant tenant such as the Yard House, a marina, and public access. Specific additional assumptions and background information used to develop the program and the pro forma are provided below.

### ***Seismic Retrofit Program and Costs***

Rehabilitation of the entire Pier 38 property will require a seismic upgrade, with considerable cost<sup>5</sup>. To formulate these costs, BAE reviewed a report completed by Structus, Inc. that evaluated the costs associated with a seismic retrofit of Pier 38, including an upgrade to the pier substructure, shed structure, and bulkhead, along with additional repairs below the deck to fix structural deficiencies and the creation of a new mezzanine in the shed to allow for second floor uses.<sup>6</sup> Accounting for these core improvements, the Structus report estimated that the construction costs would be approximately \$27.8 million.<sup>7</sup> Factoring in design and other soft costs, the total cost of the seismic retrofit and structural improvements was estimated at \$41.1 million. This estimate is incorporated in the pro forma in the following section.

### ***Public Access***

Since this project will require a Bay Conservation and Development Commission permit, it will require "maximum feasible public access." Accordingly, public access improvements must be incorporated into the development program. This project will also require approval from the California State Lands Commission which must affirm a development's consistency with the public trust. Generally, the public trust doctrine prohibits certain uses, including office and housing in favor of maritime, open space, and environmental restoration as well as retail that attracts people to the waterfront. However, in other Port rehabilitation projects, the State Lands Commission has been willing to accept non-trust uses balanced by historic preservation of key structures as well as incorporation of sufficient public trust uses that attract people to the waterfront. For these reasons, the reuse

---

<sup>5</sup> The Port of San Francisco Building Code requires for pier structures and the supporting substructure to be seismically upgraded when a change of use triggers the occupant load to increase by more than 10 percent above its prior use, and the occupancy count to rise by more than 100.

<sup>6</sup> Structus Inc., *Pier 38 Substructure/Shed Structure & Bulkhead Structure Seismic Evaluation and Conceptual Retrofit Report*, February 19, 2013

<sup>7</sup> This estimate excludes interior renovations, mechanical, electrical, and plumbing improvements, and design, which are calculated separately in the development pro forma.

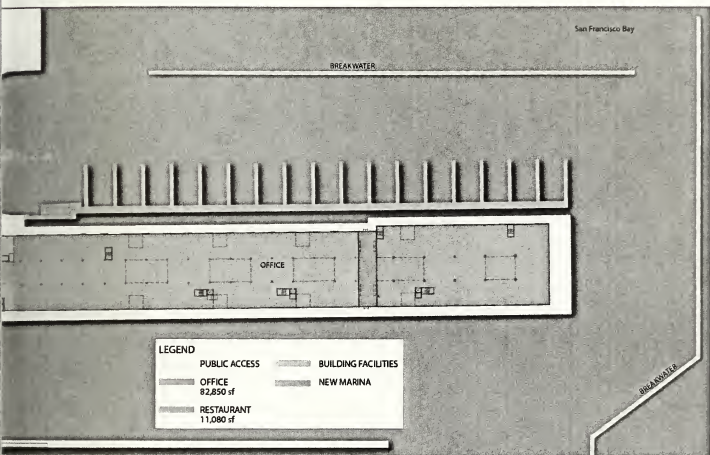


scenario analyzed here includes trust and non-trust uses as well as a public access program, including both a breezeway through the building with public access (between the bulkhead and shed portions of the structure), as well as a full, publicly-accessible perimeter walkway.

### ***Marina Development Costs***

Based on the existing depths at Pier 38, the Port Maritime Division estimates that a new floating dock of 750 feet could be constructed along the north side of the pier to accommodate 34 new slips, of which 60 percent could be sized for boats between 40' to 44', and 40 percent could be set aside for 50' to 60' vessels. A dock of this size would stretch the entire length of the north side of Pier 38, and would also require the construction of a floating wave attenuation device to protect boats from tidal motions. Power Engineering Construction Company, an expert on marina and dock construction, was consulted for this report; its staff estimated that the cost to build a new dock and wave attenuator is approximately \$4.05 million (see Appendix F for preliminary cost estimate).



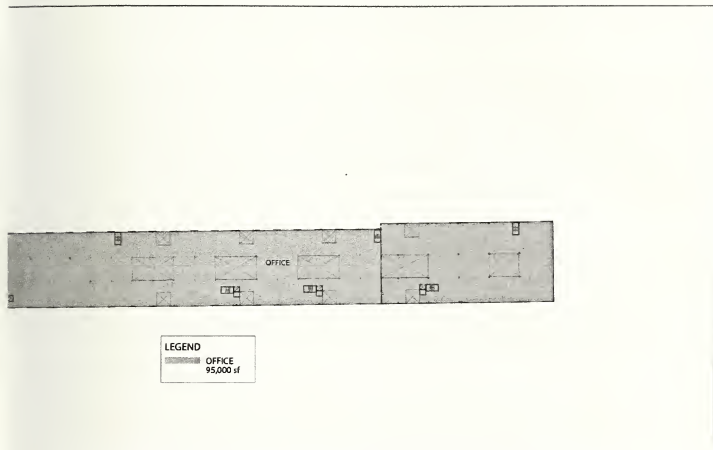


abilitation









rehabilitation





## Pro Forma Financial Analysis

Based on the development program described above, two pro formas were developed for the Whole Building concept – Scenario A with a marina included, and Scenario B without a marina.

The pro formas illustrate that the Whole Building reuse of Pier 38 is feasible and results in a positive residual value ranging from \$12.3M to \$15.4 M, depending on whether the project includes a marina component. Scenario B, without the marina component, offers better financial performance for the developer and the Port.

Both scenarios are feasible and result in capitalized values that exceed the development costs, resulting in net positive residual values for the pier. Scenario A includes a marina component and has a capitalized value of \$138.5 million and development costs of \$126.2 million, which leads to a positive residual value of \$12.3 million. Scenario B, which does not include a marina component, results in a higher residual value. While the capitalized value is lower at \$135.7 million, the cost savings from not having to build a marina reduce development costs to \$120.2 million, and leads to a higher residual value of \$15.4 million.

Scenario B without the marina offers a better financial project to the Port because the marina and floating breakwater are expensive to construct, and the cash flow generated from marina operations, although positive each year, is not sufficient to cover the high upfront costs of construction. Programmatic changes to the marina, including allocating more slips for guest users or accommodating charter boats, could potentially boost revenue and increase the residual value for Scenario A.

Both scenarios analyzed above do not account for either rent credits to amortize capital costs, or the potential equity contribution offered by an historic tax credit, which is generally 20 percent of eligible costs (not known if this could include substructure repair and seismic retrofit costs to the piers). Due to the long-term nature of the lease required for the historic tax credits (generally at least 50 years), the concept of rent credits would likely become less necessary in a long-term lease situation, since the developer would have 50 years to earn return (assumed above to be 15% of costs per year). In addition, if the lease were 50 years or more, it is likely that historic tax credits could be utilized, offering the ability to offset costs and raise return even higher.



# orma for Whole Building with Marina Component

Cost & Income Assumptions			Development Costs			Value Analysis		
3-40	Office Restaurant M&D Costs		Office Restaurant M&D			Gross Income - Office	\$	12,442,560
148,104	Hard Construction Costs (per sq. ft.) (d)	\$ 260.00	Hard Costs	\$	49,121,800	Less: Vacancy - Office	\$	(822,475)
	Soft Costs as % of Hard Costs (e)	25%	Soft Costs	\$	12,280,450	Less: Op Expenses - Office	\$	(4,357,325)
			Subtotal	\$	61,402,250	NOI - Office	\$	7,469,700
	Office Rent / Year (full service) (f)	\$ 70.00	Loan	\$	42,981,575	Capitalized Value - Office	\$	124,495,000
0	Office Vacancy	5%	Points		859,632			
14,143	Office Expenses (% of Gross Rev)	35%	Interest	\$	3,352,563	Gross Income - Restaurant	\$	664,800
82,850	Cap Rate (g)	6.0%	Development Costs	\$	65,514,444	Less: Vacancy - Restaurant	\$	(33,240)
80,855						Less: Op Expenses - Restaurant	\$	(13,296)
177,850	Restaurant Rent / Year (NNN)	\$ 60.00	Marina			NOI - Restaurant	\$	619,264
11,080	Restaurant Vacancy	5%	Hard Costs	\$	4,050,000	Capitalized Value - Restaurant	\$	11,241,164
188,930	Restaurant Mgt Exp (% of Rent)	2%	Soft Costs	\$	810,000			
	Cap Rate (h)	5.5%	Subtotal	\$	4,860,000	Gross Income - Marina	\$	650,444
18,500	Marina Costs		Loan	\$	3,402,000	Less: Vacancy - Marina	\$	(148,866)
18,500	Hard Construction Costs (per linear ft.) (i)	\$ 5,400	Points		68,040	Less: Op Expenses - Marina	\$	(280,500)
6,200	Soft Costs as % of Hard Costs (e)	20%	Interest	\$	265,356	NOI - Marina	\$	221,078
			Development Costs	\$	5,193,396	Capitalized Value - Marina	\$	2,783,473
	44' Marina Monthly Rental / Slip (j)	\$ 792.00	Public Access					
750	60' Marina Monthly Rental / Slip (j)	\$ 1,080.00	Hard Costs	\$	2,581,000	Total Capitalized Value	\$	136,499,837
20	Marina Daily Rental / Slip (j)	\$ 75.00	Soft Costs	\$	516,200	Less: Total Dev Costs	\$	(109,737,383)
14	Marina Vacancy (monthly users)	5%	Subtotal	\$	3,097,200	Less: Developer Profit	\$	(16,460,607)
34	Marina Vacancy (transient users)	30%	Loan	\$	2,168,040	Residual Value of Pier	\$	12,301,544
50%	Marina Expenses (per slip/yr) (k)	\$ 8,250	Points		43,361	Residual Value Per Acre	\$	3,618,131
50%	Cap Rate (l)	8.0%	Interest	\$	169,107	Residual Value Per Sq Ft of Pier	\$	83.06
			Subtotal Office	\$	3,309,668			
	Public Access Costs		Seismic Substructure & Superstructure			Ground Lease Rev / Year @10% of Value	\$	1,230,165
	Apron (per sq ft.) (m)	\$ 53	Hard Costs (o)	\$	27,777,680			
	Public access/walkway (per sq ft.) (n)	\$ 100	Soft Costs	\$	5,555,536			
			Subtotal	\$	33,333,216			
	Financing (All Components)		Loan	\$	23,333,251			
	Loan to Cost Ratio	70%	Points		496,665			
	Interest Rate	6.5%	Interest	\$	1,819,994			
	Period of Initial Loan (Months)	24	Subtotal Substructure + Seismic	\$	35,619,875			
	Initial Construction Loan Fee (Points)	2.0%						
	Average Outstanding Balance	60%						
			Total Dev Costs with Substructure	\$	109,737,383			
	Developer Profit (hard + soft only)	15.0%						

way along the entire perimeter of Pier 38

thead at the south side of Pier 38, and a walkway between the bulkhead and shed connecting the North and South aprons, which will be illuminated and accessible to the public at all times

ugh of the north side of Pier 38, which will include 34 slips for recreational boats ranging from 40' to 60' in length. This assumes the construction of a precast concrete

ys, and two floating breakwaters to protect boats from incoming waves set 55' off the east end of Pier 38.

of the bulkhead and shed to accommodate end users, including tenant improvements, and was based on the estimate from the San Francisco Waterfront Partners' submittal. This excludes

other professional services and are expressed as percentage of total hard costs.

3AE for comparable waterfront Class A office properties in signature waterfront buildings

urvey dated February 2013 for San Francisco Class A, value-added office

ap Rate Survey dated February 2013 for San Francisco Class A, high street retail, which includes specialty retail

Power Engineering Construction Company, a contractor that specializes in marina and dock construction. These costs were corroborated by Dutra Group, another marina

area

0% markup over rates at South Beach Harbor at Pier 40, directly south of Pier 38. The South Beach Harbor master believes these rates are reasonable, given the current ward list of 1,350.

18.00

rating budget at South Beach Harbor, and excludes the cost of utilities, which are passed through to users

ed by M. Lee Corporation and attached to the Creegan & D'Angelo report dated January 13, 2012

Port projects

bulkhead, and shed, including a new mezzanine for a second floor in the shed. This excludes the costs of interior tenant improvements, which are accounted for separately in this proforma

portion, which were attached to the Strucube, Inc. report dated February 19, 2013

zed over 30 year lease term



# Proforma for Whole Building without Marina Component

Cost & Income Assumptions			Development Costs		Value Analysis	
<u>Office/Restaurant MXD Costs:</u>			<u>Office/Restaurant MXD:</u>		<u>Gross Income - Office</u>	
48,104	Hard Construction Costs (per sq. ft.) (d)	\$ 260.00	Hard Costs	\$ 49,121,800	Less: Vacancy - Office	\$ (822,475)
	Soft Costs as % of Hard Costs (e)	25%	Soft Costs	\$ 12,280,450	Less: Op Expenses - Office	\$ (4,357,325)
			<b>Subtotal</b>	<b>\$ 61,402,250</b>	Net - Office	\$ 7,469,700
0	Office Rent / Year (full service) (f)	\$ 70.00	Loan	\$ 42,981,575	<b>Capitalized Value - Office</b>	<b>\$ 124,498,990</b>
	Office Vacancy	5%	Points	\$ 859,832		
14,145	Office Expenses (% of Gross Rev)	35%	Interest	\$ 3,352,563	Gross Income - Restaurant	\$ 664,800
80,855	Cap Rate (g)	6.0%	<b>Development Costs</b>	<b>\$ 65,614,444</b>	Less: Vacancy - Restaurant	\$ (33,240)
77,850					Less: Op Expenses - Restaurant	\$ (13,296)
11,080	Restaurant Rent / Year (NNN)	\$ 60.00	<u>Marina</u>		Net - Restaurant	\$ 818,264
	Restaurant Vacancy	5%	Hard Costs	\$ -	<b>Capitalized Value - Restaurant</b>	<b>\$ 11,241,164</b>
88,930	Restaurant Mgt Exp (% of Rent)	2%	Soft Costs	\$ -		
	Cap Rate (h)	5.5%	<b>Subtotal</b>	<b>\$ -</b>	Gross Income - Marina	\$ -
			Loan	\$ -	Less: Vacancy - Marina	\$ -
18,500	<u>Marina Costs:</u>		Points	\$ -	Less: Op Expenses - Marina	\$ -
18,500	Hard Construction Costs (per linear ft.) (i)	\$ 5,400	Interest	\$ -	Net - Marina	\$ -
6,200	Soft Costs as % of Hard Costs (e)	20%	<b>Development Costs</b>	<b>\$ -</b>	<b>Capitalized Value - Marina</b>	<b>\$ -</b>
	44' Marina Monthly Rental / Slip (j)	\$ 792.00	<u>Public Access:</u>		<b>Total Capitalized Value</b>	<b>\$ 135,736,164</b>
	60' Marina Monthly Rental / Slip (j)	\$ 1,080.00	Hard Costs	\$ 2,581,000	<b>Less: Total Dev Costs</b>	<b>\$ (104,543,987)</b>
	Marina Daily Rental / Slip (j)	\$ 75.00	Soft Costs	\$ 516,200	<b>Less: Developer Profit</b>	<b>\$ (15,681,598)</b>
	Marina Vacancy (monthly users)	5%	<b>Subtotal</b>	<b>\$ 3,097,200</b>	<b>Residual Value of Pier</b>	<b>\$ 15,510,578</b>
	Marina Vacancy (transient users)	30%	Loan	\$ 2,168,040	<b>Residual Value Pier Acre</b>	<b>\$ 4,561,935</b>
50%	Marina Expenses (per slip-yr) (k)	\$ 8,250	Points	\$ 43,361	<b>Residual Value Pier Sq Ft of Pier</b>	<b>\$ 104.73</b>
50%	Cap Rate (l)	8.0%	Interest	\$ 169,107		
			<b>Subtotal Office</b>	<b>\$ 3,309,668</b>	<b>Ground Lease Rev / Year @10% of Value</b>	<b>\$ 1,551,058</b>
	<u>Public Access Costs:</u>		<u>Seismic, Substructure &amp; Superstructure:</u>			
	Apron (per sq ft.) (m)	\$ 53	Hard Costs (o)	\$ 27,777,680		
	Public access/walkway (per sq ft.) (n)	\$ 100	Soft Costs	\$ 5,555,536		
			<b>Subtotal</b>	<b>\$ 33,333,216</b>		
	<b>Financing (All Components)</b>		Loan	\$ 23,333,251		
	Loan to Cost Ratio	70%	Points	\$ 466,965		
	Interest Rate	6.5%	Interest	\$ 1,819,994		
	Period of Initial Loan (Months)	24	<b>Subtotal Substructure + Seismic</b>	<b>\$ 35,619,875</b>		
	Initial Construction Loan Fee (Points)	2.0%				
	Average Outstanding Balance	60%	<b>Total Dev Costs with Substructure</b>	<b>\$ 104,543,987</b>		
	<b>Developer Profit (hard + soft only)</b>	<b>15.0%</b>				

away along the entire perimeter of Pier 38

bulkhead at the south side of Pier 38, and a walkway between the bulkhead and shed connecting the North and South aprons, which will be illuminated and accessible to the public at all times along the north side of Pier 38, which will include 34 slips for recreational boats ranging from 40' to 60' in length. This assumes the construction of a precast concrete apron, and two floating breakwaters to protect boats from incoming waves set 55' off the east end of Pier 38

of the bulkhead and shed to accommodate end users, including tenant improvements, and was based on the estimate from the San Francisco Waterfront Partners' submittal. This excludes

all other professional services and are expressed as percentage of total hard costs.

BAE for comparable waterfront Class A office properties in signature waterfront buildings.

Survey dated February 2013 for San Francisco Class A, value-added office.

Cap Rate Survey dated February 2013 for San Francisco Class A, high street retail, which includes specialty retail.

Power Engineering Construction Company, a contractor that specializes in marina and dock construction. These costs were corroborated by Dutra Group, another marina

Area

100% markup from rates at South Beach Harbor at Pier 40, directly south of Pier 38. The South Beach Harbor master believes these rates are reasonable, given the current wait list of 1,350

18.00

operating budget at South Beach Harbor, and excludes the cost of utilities, which are passed through to users.

prepared by M. Lee Corporation and attached to the Creagan & D'Angelo report dated January 13, 2012.

to Port projects

bulkhead, and shed, including a new mezzanine for a second floor in the shed. This excludes the costs of interior tenant improvements, which are accounted for separately in this proforma

corporation, which were attached to the Structus, Inc report dated February 19, 2013.

ized over 30 year lease term

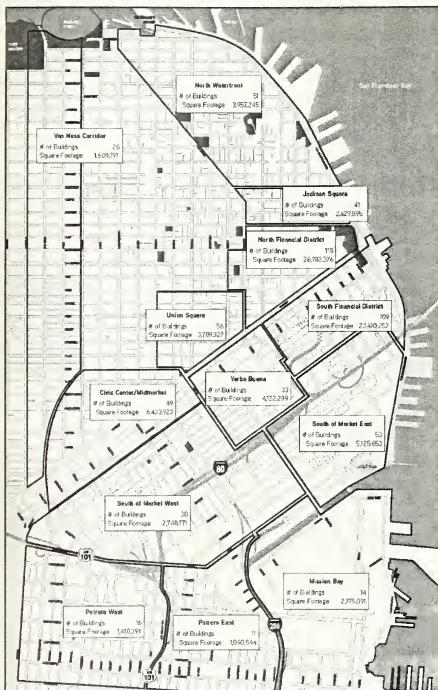




## APPENDIX A: SITE LOCATION AND OFFICE SUBMARKET





Note: Flag data refers to prior period than data presented in the market overview for this report.  
Map included just to indicate Downtown and SoMa east boundaries per Colliers.

### San Francisco Submarket Map










## APPENDIX B: RECENT OFFICE LEASES IN VICINITY

Name/Address Stories/Year Built	Sq. Ft. Leased	Rent/Sq.Ft./Year	Water View	Details	Source	Notes
<b>Ferry Building</b> 	2,000	\$77.00 Full service 3-year term	NA	Expansion of existing tenant space (Coblentz) No Tls.	BAE	Signed July 2012
<b>188 Spear Street</b> 	9,810	\$59.68 Full service 7-year term	Yes	4th floor TI allowance \$10.00/sq.ft.	CAC Group BAE	Signed March 2012
	55,006	\$60.00 Full service 7-year term	Yes	10 through 12nd Floor TI allowance \$52.50/sq.ft.	CAC Group BAE	Signed July 2013
	83,154	\$54.95 Full service 7-year term	Yes	Floors 3, 4, 7 & 8 TI allowance \$60.00/sq.ft.	CAC Group BAE	Signed June 2012
<b>One Market</b> 	116,620	\$60.26 Full Service 78-month term	Yes	Floors 7&8 and 10&11 Steuart Street Tower TI allowance \$50/sq.ft. on 10th floor TI allowance \$15/sq.ft. on 11th floor	CAC Group BAE	Signed March 2012
	17,860	\$72.54 Full service 10 year term.	Yes	22nd Floor Steuart Street Tower TI allowance \$75/sq.ft.	CAC Group BAE	Signed February 2012
	7,462	\$73.92 Full service 10-year term	Yes	41st Floor Spear Street Tower TI allowance \$70/sq.ft.	CAC Group BAE	Signed February 2012
	6,360	\$80.37 Full service 26-month term	Yes	12th Floor Steuart Street Tower TI allowance \$6.83/sq.ft.	CAC Group BAE	Signed December 2012
	16,264	\$72.00 Full service 3-year term	Yes	24th Floor Steuart Street Tower TI allowance None/sq.ft.	CAC Group BAE	Renewal signed June 2012
<b>2 Bryant Street</b> 	4,490	\$46.50 Full service 48-month term	Yes	2nd Floor TI allowance None/sq.ft.	CAC Group BAE	Signed May 2012
	4,961	\$45.50 Full service 2-year term	Yes	2nd Floor TI allowance \$15.00/sq.ft.	CAC Group BAE	Signed April 2012

Sources: CAC Group, Loopnet, BAE 2013.








## APPENDIX C: CURRENT OFFICE ASKING LEASE RATES

					
<b>Address</b>	625 Second Street San Francisco, CA 94107	21 South Park San Francisco, CA 94107	463 Bryant San Francisco, CA 94107	111 Townsend Street San Francisco, CA 94107	501 2nd Street San Francisco, CA 94107
<b>Property Type</b>	Office	Office	Office	Office	Office
<b>Property Subtype</b>	Creative/Loft	Office Building	Creative/Loft	Creative/Loft	Office Building
<b>Zoning</b>	SSO			M-2	
<b>Building Size</b>	106,906 SF Bldg	24,000 SF Bldg	3,000 SF Bldg	22,500 SF Bldg	207,809 SF Bldg
<b>Year Built</b>	1906				1908
<b>No. Stories</b>					
<b>Lot Size</b>					
<b>APN / Parcel ID</b>					
<b>Space Available</b>	2,817 - 11,301 SF	5,797 SF	1,500 SF	6,000 - 10,500 SF	2,997 - 16,630 SF
<b>Asking Rent</b>	\$48 /SF/Yr	\$52 /SF/Yr	\$48 /SF/Yr	\$50 /SF/Yr	\$52 - 58 /SF/Yr
<b>Spaces</b>	4 Spaces	1 Space	1 Space	3 Spaces	3 Spaces
<b>Property Description</b>	Built in 1906, the four-story building features a brick exterior and exposed timber beams and brick walls on its interior and offers below grade parking.	A fully renovated brick and timber building with elevator, handicap bathrooms, skylights.	463 Bryant Street (between 2nd and 3rd street)* Free standing, contemporary designer space" 1500 sq. ft. second floor" Open floor plan with s...	Full building opportunity in the heart of SOMA.	501 Second Street is a Class A building, fully renovated in 1986 with 7 floors plus basement covered parking, and terrace level storage. The build...
<b>Location Description</b>	1 block to South Park & AT & T Ball Park. On-site covered parking. Close proximity to MUNI/Caltrain, Bay Bridge & Interstate 280	Property is located directly on highly desirable South Park, San Francisco	1/2 a block away from South Park 2 minutes from Bay Bridge 5 minutes from 280/101 South Epicenter of tech/service/design real estate 3 blocks from Cal Train Station	SOMA East Townsend between Second & Third	The building is conveniently located in the Second Street corridor. Located in the multi-media gulch and immediately adjacent to South Park, this building has four sides of natural light.

Sources: Loopnet, July 3, 2013; BAE, 2013.



## APPENDIX D: ASKING RETAIL / RESTAURANT RENTS

					
<b>Address</b>	326 First Street San Francisco, CA 94105	25 Essex St San Francisco, CA 94105	111 Townsend Street San Francisco, CA 94107	217 King St San Francisco, CA 94107	70 Pier Bldg 102 San Francisco, CA 94107
<b>Property Type</b>	Retail	Retail	Office	Retail	Retail
<b>Property Subtype</b>	Restaurant	Retail (Other)	Creative/Loft	Retail (Other)	Restaurant
<b>Zoning</b>			M-2		
<b>Building Size</b>	2,880 SF Bldg	1,804 SF Bldg	22,500 SF Bldg	1,418 SF Bldg	
<b>Year Built</b>					
<b>No. Stories</b>					
<b>Lot Size</b>					
<b>APN / Parcel ID</b>					
<b>Space Available</b>	2,880 SF	720 - 1,804 SF	6,000 - 10,500 SF	1,418 SF	8,500 SF
<b>Asking Rent</b>	\$28.75 /SF/Yr	\$30 /SF/Yr	\$50 /SF/Yr	\$42 /SF/Yr	
<b>Spaces</b>	1 Space	3 Spaces	3 Spaces	1 Space	1 Space
<b>Property Description</b>	**Temporarily off-market, please inquire with broker for details**Owner desires an established, well-funded operator who can fully appreciate thi...	3 ground floor retail/office spaces available.Space 1 is 720 SF Space 2 is 1,804 SF Space 3 is 871 SF Brand new constructionCorner location...	Full building opportunity in the heart of SOMA.		
<b>Location Description</b>	Directly across the street from The Metropolitan Towers & Rincon Hill a stone's throw away!	Located in SoMa / Lower Financial District	SOMA East Townsend between Second & Third	San Francisco	Peninsula

Source: Loopnet, June 21, 2013; BAE, 2013.





## APPENDIX E: PARKING GARAGE RENTS

Name/Location	Owner	Type	Rates	Number of Spaces	Notes
Towsend Parking 148 Towsend St	Priority Parking	Parking Garage 1 story covered	Early bird (in by 10) \$10/day After 10 \$15-\$20/day After 10 full size vehicle \$30/day Game days \$20-\$30/day up to \$80-\$100/day Monthly rate \$250 or \$400 includes access during games days	70	Closed on Weekends \$400/month includes access on game days
Giants Parking 680 2nd St	Priority Parking	Parking Garage 1 story covered	Early bird (in by 10) \$10/day After 10 \$15-\$20/day After 10 full size vehicle \$30/day Game days \$20-\$30/day up to \$80-\$100/day \$250-\$400/month	30	Closed on Weekends \$400/month includes access on game days
270 Brannon St	Pacific Park Management	Surface Parking	\$12/day \$200/month	112	24 hour parking 7 days a week
501 Second Garage 501 2nd St	City Park				Swig company Available or building tenants only
303 2nd St	ABM	Parking Garage	\$2 for 15 min \$25 for 24 hours Early Bird \$17 Monthly \$325	318	M-F 5am-9pm
The Beacon 250 King St	City Park	Parking Garage covered surface and one leve underground	\$3/20 min up to \$20 within 24 hrs Game day flat rate \$35-\$60 Public unrestricted \$350/month	200	Open everyday 24 hrs
475 Brannon Street	ABM	Parking Garage 2 story	\$2.50/20 min 12 hr max \$15/day Event \$30-\$60	100	No overnight parking
Pier 39 Garage 2550 Powell St	ABM	Parking Garage	\$8/hr \$40 for 24 hours	90	No overnight parking
One Market Plaza Parking 1 Market St	ABM	Parking Garage	\$6 for 30 min Daily max \$44 Evening (in by 4pm out by 8pm) \$18 Monthly \$495-600	170	Subterranean
China Basin 185 Berry Street #3512	Ace Parking 415-625-0755	Parking Garage 1 story	\$3 for 20 min \$20 max Event \$30-\$100 \$280/month \$350/month reserved	255	Closed in evenings except on game days
1888 The Embarcadero	Paring Concepts Inc	Parking Garage Covered 1 story	Early bird (In before 8:30) \$14/day \$3 for 15min max of 28 min \$50 for 24 hrs \$365/month	40	Surveilled 7am-7pm 7 days a week
401 Main Street	Host Parking Services	Parking Garage 2 story	Early bird (In before 9am) \$16/day \$20/day after 9am \$30/hr for max of 4hrs \$265/month	No answer	No overnight Full valet they park for you Below a condo building
Hill Plaza Garage 345 Spear St	Propark	Parking Garage 2 story	\$3.00 ea. 15 min. (Mon-Fri) Daily Max \$25.00 (Mon-Fri) \$10.00 (Sat-Sun) \$345/month	314	No valet Mon-Fri 6am-11pm Sat-Sun 3pm-11pm Prices don't change on game days

Source: BAE, 2013



# APPENDIX F: MARINA CONSTRUCTION COST ESTIMATE



Pier 38 - Northside Floating Dock and Breakwater

San Francisco, CA

Budget Pricing

Date: July 15, 2013

Item	Description	Quantity	Units	\$/Unit	Sub Total	Total	Comments
<b>1. New Guest Boat Dock on North Side of Pier 38:</b>						<b>\$ 2,801,500</b>	
a.	Supply and install 750' L x 10' W Precast Concrete Dock System	8,460	SF	\$ 200	\$ 1,692,000		Supply and install precast concrete floating docks, dock accessories, electrical, potable water and fire. Includes 4 floats (10' x 24') for Gangway Landings.
b.	Supply and Install 80 foot gangways	4	EA	\$ 75,000	\$ 300,000		Purchase, deliver, and set 4' x 80' gangway, gangway access platform, and mounted utility chases.
c.	New 24" Precast Concrete Piling	38	EA	\$ 20,250	\$ 769,500		Fabricate, deliver, and drive 24" precast concrete piling. Assume piling at 20 feet O.C.
d.	Sewer Pumpout Station	1	EA	\$ 40,000	\$ 40,000		
<b>2. Floating Breakwater - Assume Two (2) Floats at 55 feet long off the East end of Pier 38:</b>						<b>\$ 873,000</b>	
a.	Supply and Install 15' x 55' Precast Floating Breakwater	1,800	SF	\$ 325	\$ 585,000		Supply and install precast concrete floating breakwater modules. Assume floats are 9 foot deep. 84 ton max weight on float due to precast fabrication limitation.
b.	New 24" Precast Concrete Piling	12	EA	\$ 24,000	\$ 288,000		Fabricate, deliver, and drive 24" precast concrete piling. Assume 6 piles per 55' float (3 per side). Assume longer piles than guest dock.
<b>Budgeted Cost:</b>						<b>\$ 3,674,500</b>	
<b>3. Contingency:</b>					10%	<b>\$ 367,450</b>	Construction contingency for geotechnical and regulatory unknowns.
<b>Total Budget:</b>						<b>\$ 4,041,950</b>	



## Attachment 8 – Future Total Development: Next Steps

Subject to Port Commission direction, Port staff might take the following steps to determine financial feasibility and regulatory strategy for a re-use project:

- Port Commission creation of a Pier 38 community advisory Group to develop a vision plan for a Total Development: \* Summer 2015
- Port Commission approval of a Pier 38 vision and selection of a Total Development developer: Winter 2015
- Port Commission approval of exclusive negotiations with Total Development developer: Winter 2015
- Board of Supervisors Term Sheet approval, demonstrating financial feasibility and regulatory strategy: Summer 2016
- CEQA environmental review process (18 months): Winter 2017
- State Lands Commission trust consistency process (6 months): Winter 2017
- Waterfront Land Use Plan amendment (6 months) Winter 2017
- WDAC/DRB design review process (3 months): Winter 2017
- Port Commission LDDA and lease approval: Spring 2018
- Board of Supervisors lease approval: Spring 2018
- Bay Conservation and Development Commission permit approval: Summer 2018
- Completion of Construction (24 months): Summer 2020
- Tenant Occupancy (3 months): Fall 2020

*\*This schedule shows creation of the community advisory group occurring during construction of the bulkhead rehabilitation project, but this could occur earlier or later. The durations of each task should remain roughly constant.*





## MEMORANDUM

December 5, 2013

**TO:** MEMBERS, PORT COMMISSION  
Hon. Doreen Woo Ho, President  
Hon. Kimberly Brandon, Vice President  
Hon. Willie Adams  
Hon. Leslie Katz  
Hon. Mel Murphy

**FROM:** Monique Moyer *M Moyer*  
Executive Director

**SUBJECT:** Informational presentation on responses to the Request for Proposals for the lease of the EcoCenter at Heron's Head Park and surrounding 6,058 square feet of non-exclusive license area, located near the intersection of Jennings Street and Cargo Way

**DIRECTOR'S RECOMMENDATION:** Informational Only – No Action Required

---

### EXECUTIVE SUMMARY

The EcoCenter is a unique green building, designed and constructed to serve as an environmental education center and located within the Port of San Francisco's Heron's Head Park. At its meeting on September 24, 2013, the Port Commission authorized staff to issue a Request for Proposals from qualified entities to lease the EcoCenter and operate it in keeping with its purpose as a public resource, providing environmental education and demonstrating green building technology.

The Port issued an RFP on September 25, 2013 and undertook extensive outreach to notify potentially interested parties of the lease opportunity. Port staff conducted tours of the site in September and October, and held a pre-proposal conference on October 10, 2013. Proposals were due on November 8, 2013, on which date the Port received qualified responses from the following parties:

- The A. Philip Randolph Institute (APRI)
- The Bay Institute Aquarium Foundation (the Bay Institute)

The EcoCenter is an important component of the Port's public trust mission to promote public access to the waterfront and preserve natural resources. Leasing the EcoCenter to

**THIS PRINT COVERS CALENDAR ITEM NO. 8B**





a new tenant provides an opportunity to continue to house and enrich the Port's environmental education programs at Heron's Head Park and serve the wide variety of visitors to the EcoCenter. The Port considers community participation to be an essential component of EcoCenter operations. Consequently, the RFP and evaluation process have emphasized the goal of operating the EcoCenter in a manner that includes significant participation from the southeastern sector of San Francisco and promotes the EcoCenter's public benefit potential.

Each respondent will present an overview of their proposal to the Port Commission at the December 12, 2013 meeting. As of that date, an evaluation panel will have reviewed proposals, interviewed both proposers, and completed scoring related to their evaluation as described below. The presentations are offered for the Port Commission's and public's information, and are not considered in the evaluation process. No action is requested at this meeting. Staff will return on January 14, 2014 with a recommendation regarding this leasing opportunity.

## **BACKGROUND**

Heron's Head Park is a 22-acre open space owned and operated by the Port, dedicated to wetland and wildlife habitat and passive recreation (see Exhibit A). Port tenant, LEJ, a non-profit organization in the Bayview-Hunters Point neighborhood, has leased approximately 2,300 square feet of land beneath the EcoCenter and a surrounding 6,058 square-foot non-exclusive outdoor license area (see Exhibit B) since 2007. LEJ constructed the EcoCenter in 2009-2010, and has owned and operated it since. The EcoCenter is comprised of a single open meeting room, adjacent wastewater treatment room, two unisex disabled-accessible restrooms, and two very small office and utility rooms. The EcoCenter is located at the highest elevation within the park and is not at risk of being significantly impacted by sea level rise during the proposed lease term.

After making a decision in late 2011 to refocus its mission, LEJ approached the Port seeking to terminate its lease and operations at the EcoCenter. On October 8, 2013, the Port Commission authorized Port staff to negotiate and execute a mutual termination agreement with LEJ, through which ownership and operation of the EcoCenter would transition from LEJ to the Port<sup>1</sup>. The mutual termination agreement is subject to approval by the Board of Supervisors of the City and County of San Francisco under Charter section 9.118. As of the date of this report, the Mutual Termination Agreement is scheduled to be heard by the Board of Supervisors' Budget and Finance Committee on December 11, 2013.

At its meeting on September 24, 2013, the Port Commission authorized staff to issue a Request for Proposals from qualified entities to lease the EcoCenter and operate it in keeping with its purpose as a public resource, providing environmental education and demonstrating green building technology<sup>2</sup>. Port Commission approval included consideration of the basic terms and conditions of the proposed lease and the minimum qualifications and evaluation criteria for the proposals.

---

<sup>1</sup> See staff report to the Commission at <http://www.sfport.com/modules/showdocument.aspx?documentid=6838>

<sup>2</sup> See staff report to the Commission at <http://www.sfport.com/modules/showdocument.aspx?documentid=6723>



a new tenant provides an opportunity to continue to house and enrich the Port's environmental education programs at Heron's Head Park and serve the wide variety of visitors to the EcoCenter. The Port considers community participation to be an essential component of EcoCenter operations. Consequently, the RFP and evaluation process have emphasized the goal of operating the EcoCenter in a manner that includes significant participation from the southeastern sector of San Francisco and promotes the EcoCenter's public benefit potential.

Each respondent will present an overview of their proposal to the Port Commission at the December 12, 2013 meeting. As of that date, an evaluation panel will have reviewed proposals, interviewed both proposers, and completed scoring related to their evaluation as described below. The presentations are offered for the Port Commission's and public's information, and are not considered in the evaluation process. No action is requested at this meeting. Staff will return on January 14, 2014 with a recommendation regarding this leasing opportunity.

## **BACKGROUND**

Heron's Head Park is a 22-acre open space owned and operated by the Port, dedicated to wetland and wildlife habitat and passive recreation (see Exhibit A). Port tenant, LEJ, a non-profit organization in the Bayview-Hunters Point neighborhood, has leased approximately 2,300 square feet of land beneath the EcoCenter and a surrounding 6,058 square-foot non-exclusive outdoor license area (see Exhibit B) since 2007. LEJ constructed the EcoCenter in 2009-2010, and has owned and operated it since. The EcoCenter is comprised of a single open meeting room, adjacent wastewater treatment room, two unisex disabled-accessible restrooms, and two very small office and utility rooms. The EcoCenter is located at the highest elevation within the park and is not at risk of being significantly impacted by sea level rise during the proposed lease term.

After making a decision in late 2011 to refocus its mission, LEJ approached the Port seeking to terminate its lease and operations at the EcoCenter. On October 8, 2013, the Port Commission authorized Port staff to negotiate and execute a mutual termination agreement with LEJ, through which ownership and operation of the EcoCenter would transition from LEJ to the Port<sup>1</sup>. The mutual termination agreement is subject to approval by the Board of Supervisors of the City and County of San Francisco under Charter section 9.118. As of the date of this report, the Mutual Termination Agreement is scheduled to be heard by the Board of Supervisors' Budget and Finance Committee on December 11, 2013.

At its meeting on September 24, 2013, the Port Commission authorized staff to issue a Request for Proposals from qualified entities to lease the EcoCenter and operate it in keeping with its purpose as a public resource, providing environmental education and demonstrating green building technology<sup>2</sup>. Port Commission approval included consideration of the basic terms and conditions of the proposed lease and the minimum qualifications and evaluation criteria for the proposals.

---

<sup>1</sup> See staff report to the Commission at <http://www.sfport.com/modules/showdocument.aspx?documentid=6838>

<sup>2</sup> See staff report to the Commission at <http://www.sfport.com/modules/showdocument.aspx?documentid=6723>



## **KEY TERMS OF THE RFP AND STANDARD FORM OF LEASE**

On September 25, 2013, staff issued the RFP for a minimum 5-year lease with the possibility of two 2-year options to be offered at the Port's sole discretion. The EcoCenter serves as an important component of the Port's public trust mission to promote public access to the waterfront and preserve natural resources. It offers negligible potential to generate revenue. Consequently, the proposed lease terms include a base rent payment to the Port of \$1 per year, provided that the tenant is a non-profit entity.

The RFP specified that the EcoCenter will be used primarily for education and public access with a focus on green building, sustainability, and San Francisco Bay habitats. It also established Port goals for operation and programming<sup>3</sup>, including:

- Promote public access and participation.
- Maximize the educational and other public benefits.
- Engage the local community.
- Operate the building systems and maintain surrounding landscaping.
- Coordinate with the Port staff to facilitate the Port's maintenance of the EcoCenter.

The RFP required Proposers to submit an "Operations and Program Plan" that describes its proposed use of the EcoCenter and how it will fulfill the Port's objectives as listed above. These goals were considered by the Port Commission in its authorization to issue the RFP and form the basis for the evaluation criteria used to score the proposals and interviews. Proposers were also asked to submit a Port Leasing Application Package, including the financial information required therein, and a "Funding Plan", which describes how the Proposer will fund its proposed programs.

## **OUTREACH PROCESS**

Port staff's outreach to potentially interested parties included calling or emailing hundreds of individuals, organizations, institutions and City and County of San Francisco agencies whose mission or interest fits the goals of the EcoCenter lease opportunity, either as tenants or users of the EcoCenter, as described below. Notices of availability of the RFP were posted on the City's Bids & Contracts Database and the Human Rights Commission website. The Port placed print advertisements in local newspapers (the San Francisco Chronicle, Examiner, Oakland Tribune, Philippine News, and San Francisco Bayview). The advertisement was also sent to the Clerk of the Board for placement in twelve community newspapers that make advertising space available to City Departments.

On September 25, 2013, notice of the RFP availability was emailed to all existing Port tenants and the Southern Waterfront Advisory Committee (SWAC) and approximately 170 SWAC-related interested parties. The Port emailed notices directly to more than 700 neighborhood groups, homeowners' organizations, and other community based organizations in the Bay View Hunters Point area. The Port also sent individual emails directly to ten organizations that connect corporations that have social responsibility programs with organizations or venues that offer opportunity for implementing such programs. Over the course of the outreach effort, 33 individuals registered on the Port's

---

<sup>3</sup> Port objectives are described in further detail in the RFP and the September 24, 2013 Staff Report to the Commission.



website to receive information and updates about the RFP during the proposal solicitation period.

To promote public interest and provide an opportunity for potential Proposers to learn more about the EcoCenter building, Port staff advertised (through the notices described above) and conducted six tours of the EcoCenter in September and October 2013. Thirteen people, representing five organizations attended the tours.

The Port held a pre-submittal conference regarding the lease opportunity and the RFP at the EcoCenter on October 10, 2013. Twenty individuals representing 17 organizations attended the pre-submittal conference.

## **RESPONSES TO THE RFP**

On November 8, 2013, the Port received three submittals in response to the RFP: two proposals and one letter of interest regarding a remote-learning opportunity that might be complementary to the programming implemented by an entity ultimately selected to lease the EcoCenter. The two proposals were from:

- The A. Philip Randolph Institute
- The Bay Institute Aquarium Foundation

The A. Philip Randolph Institute is a Bayview-based non-profit organization whose mission is to advocate for racial and economic justice in low-income communities by providing education, training and other opportunities that empower residents. The Bay Institute Aquarium Foundation is a non-profit organization dedicated to serving a broad community through education about San Francisco Bay. The Bay Institute Aquarium Foundation proposes to operate the EcoCenter in partnership with City College of San Francisco under the guidance of a Program Advisory Committee comprised of local community groups and environmental educators.

One-page summaries of each of the two proposals are attached as Exhibit C and posted on the Port's website at [www.sfport.com/ecocenter-rfp](http://www.sfport.com/ecocenter-rfp). Each respondent will present an overview of its proposal to the Port Commission at the December 12, 2013 meeting.

## **EVALUATION CRITERIA**

The RFP required Proposers to have the following minimum qualifications:

- Five years of experience managing a facility and/or program similar in nature to the EcoCenter and/or its program goals.
- Sufficient organizational and financial capacity to provide the program proposed. At a minimum, the tenant must open the EcoCenter for free public access at least four days per week, including at least one weekend day.
- The ability to obtain all required insurance policies as listed in the standard form lease and all permits, licenses or other approvals required for the proposed program.

Initial review by Port staff found both proposals to be responsive to the RFP requirements and both Proposers meet the minimum qualifications. The following factors will inform the evaluation of which respondent is best qualified and should be selected for negotiations:





- Written submittals
- Interviews
- Evaluation and scoring by evaluation panel (see Exhibit C: Evaluation Criteria)
- Review of financial materials

## **NEXT STEPS**

The Port has assembled an evaluation panel with experience relevant to the EcoCenter lease to evaluate and recommend a most qualified Proposer. The panel includes individuals with expertise in operating an environmental education center in a green building, providing environmental education, recreation, and volunteer programs, funding and operating public access and environmental restoration projects in San Francisco Bay, and a Bayview Hunters Point resident and social activist in matters related to equity, health and wellness. The evaluation panel will have reviewed proposals, interviewed both proposers, and completed scoring related to their evaluation as described below prior to the informational presentation to the Port Commission. The informational presentation is for the Port Commission's and public's information, and is not considered in the evaluation process.

Port staff in the Real Estate and Finance divisions are evaluating the financial information submitted with the proposals. Staff intends to return to the Port Commission at its January 14, 2014 meeting with a recommendation and request for authorization to execute a lease with the most qualified Proposer. The Port Commission, upon considering the staff recommendation, could then award the lease opportunity to a Proposer. If the Port Commission approves, staff will finalize terms and conditions of the lease, consistent with the basic lease information and standard form of lease attached to the RFP, and execute a lease with the new tenant of the EcoCenter.

Prepared by: Carol Bach, Environmental & Regulatory Affairs Manager  
Planning & Development Division

Jeffrey Bauer, Senior Leasing Manager  
Real Estate Division

For: Byron Rhett, Deputy Director  
Planning & Development Division

Susan Reynolds, Deputy Director  
Real Estate Division

## **Attachments**

Exhibit A: Site Location, The EcoCenter at Heron's Head Park  
Exhibit B: Site Plan for lease opportunity  
Exhibit C: Evaluation Criteria  
Exhibit D: Proposal Summaries

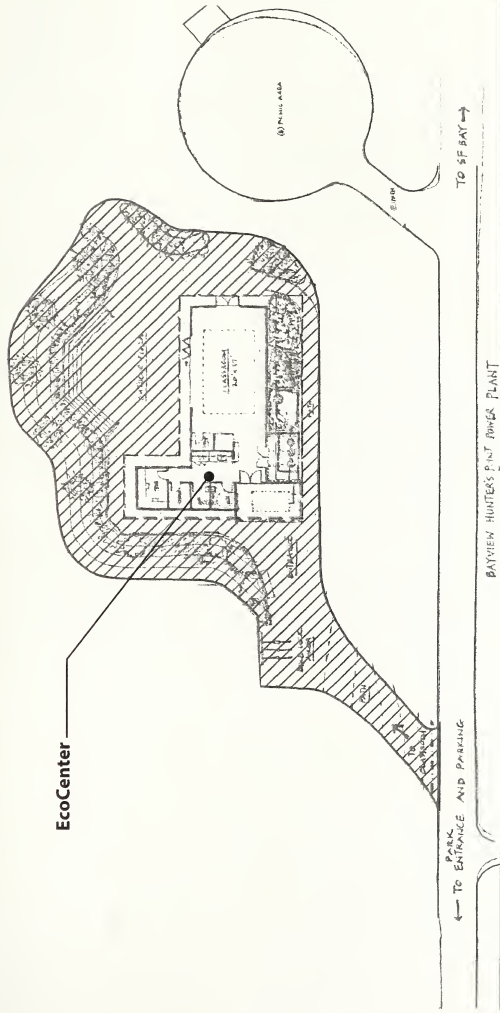


### Exhibit A. Site Location, The EcoCenter at Heron's Head Park





# Exhibit B. Site Plan for Lease Opportunity



The lease includes the 2,300 sq. ft. EcoCenter building and surrounding 6,058 sq. ft. non-exclusive license area.



# Exhibit C: Evaluation Criteria

Evaluation Criteria	Points
<p><b>Experience, Qualifications and Response to Port Goals:</b></p> <ul style="list-style-type: none"> <li>• Proposer' team members, key personnel and their collective experience.</li> <li>• Proposer's organizational structure, history of the organization or team</li> <li>• Demonstrated experience and education to professionally staff and manage the proposed operation in a safe and secure manner, comply with the requirements of the lease, and achieve the Port's objectives for the EcoCenter (see Section V,1-5).</li> <li>• Experience in environmental education or other discipline related to the proposed program, demonstrated by either organizational experience or a proposed staffing/partnering program to provide those services.</li> <li>• Demonstrated experience working with civic institutions.</li> </ul>	35
<p><b>Operation and Program Plan:</b></p> <ul style="list-style-type: none"> <li>• Ability of proposed programming to meet the goals and objectives of the Port, as outlined in the RFP. Proposed programming may include elements not currently specified but offering added value.</li> <li>• Proposed education and public outreach activities, including hours of operation, key staff, targeted participant groups, anticipated type and number of programs provided and participants served.</li> <li>• Proposer's plan to integrate existing environmental education and public participation programs currently provided by a partnership between the Port and the Recreation and Parks District's Youth Stewardship Program, including service learning and volunteer opportunities that support stewardship of the habitats and Herons' Head Park.</li> <li>• Proposed measures and reporting to demonstrate to the Port that its goals for the EcoCenter are being achieved.</li> </ul>	40
<p><b>Funding Plan, Financial Capacity:</b>  Proposer's ability to finance the proposed operations as determined by review of financial information submitted with the lease application and Proposer's description of funding development experience and plan for the EcoCenter as described in the Proposer's Funding Plan.</p>	25
<b>Total points</b>	100





The A. Philip Randolph Institute San Francisco (APRISF) is a 501 (c) 3 non-profit community-based organization, located in the Bayview. Our mission is to advocate for racial and economic justice in low-income communities by providing education, training opportunities and engagement activities that empower residents.

The A. Philip Randolph Institute San Francisco is excited to have developed a program for the EcoCenter that maximizes park usage and promotes public access to the unique features of the EcoCenter. Our goal is to ignite and foster curiosity of the local Southeast community and park visitors about science and nature through inquiry and discovery.

#### Site Tours:

EcoCenter site tours will be offered to the public to learn about the unique systems at the EcoCenter that make it a LEED-Platinum certified building. Tours will identify solar, wastewater, and water conservation systems to educate visitors about technology and environmental conservation concepts.

APRISF will coordinate tours with interested groups of youth and adults to include a broad range of visitors. Targeted outreach efforts to build relationships with local community will include locations such as the San Francisco Unified School District, Bayview Hunters Point Senior Services, the local faith-based community and the San Francisco Housing Authority.

#### Educational Workshops and Programs:

**Youth Club** offers afterschool workshops to young adults interested in accessing enrichment resources, internships and employment opportunities offered in San Francisco. Workshop curriculum is designed to match youth with various opportunities, complete application process, request work permits, and write personal statements.

**GreenAgers Internship Program** registration and enrollment location for the San Francisco Recreation and Parks Department programs and job opportunities are open to youth during enrollment cycles. Targeted outreach efforts are intended to engage youth from the surrounding community in youth leadership and environmental stewardship of San Francisco's parks and open spaces.

**Port Beautification Youth Work Program** is offered to Bayview Youth ages 16 and 17 as a hands-on learning opportunity for high school students to learn parks and grounds maintenance on Port sites along the City's shoreline.

**Mural Arts Program** offered to Bayview high school students interested in learning canvas painting and mural art techniques. This unique project-based learning opportunity presented to young adults includes a mural project comprised of self-portraits painted by each student and compiled to tell their story.

#### Recreational Activities and Events:

**Community Bike Rides** coordinated with the San Francisco Police Department offers an opportunity to encourage physical activity and appreciation of the Southeast bicycle routes.

We will develop online and accessible culturally competent materials to market our programs, activities and events.

Support for our EcoCenter programs are from on-going professional services contracts and generous donations from individuals, corporations, labor unions and foundations.





## EcoCenter Proposal Summary

### The Bay Institute Aquarium Foundation

**Overview:** The Bay Institute Aquarium Foundation (TBIAF) is passionate about providing unforgettable encounters with our natural world and is a leader in delivering rigorous environmental education. TBIAF, in collaboration with City College of San Francisco (CCSF), intends to honor the Heron's Head EcoCenter's original purpose of providing essential environmental education for the communities of southeast San Francisco. TBIAF envisions the EcoCenter as a thriving hub for all facets of the surrounding community. We will strengthen and build upon existing educational and workforce development programming, providing programs free of charge to all visitors, with special emphasis on the Bayview Hunters Point (BVHP).

This collaboration will draw on our institutions' combined 95 years' experience in education; our effective community outreach infrastructure; and guidance from existing EcoCenter staff and from BVHP community groups. We have begun building a Program Advisory Committee (PAC) composed of ten to twelve BVHP community leaders and environmental educators to guide the direction of our program growth, and are seeking a BVHP community leader to join our Board of Directors to ensure the BVHP community is integrated into TBIAF's leadership. We will open the EcoCenter's doors on Day One with new and existing programming.

**Key Activities:** TBIAF will open the EcoCenter to the public Wednesdays through Saturdays from 9:30AM to 3:30PM, with expanded days and times as we develop additional programming. Community organizations and other local groups will have special access for events and programming beyond normal visitor hours.

TBIAF will work with CCSF to continue existing programming, including work done by the Youth Stewardship Program and Greenagers, while also launching new programs like "Science Saturdays" – which will offer a wide range of science-based events, hands-on education, and volunteer opportunities. These programs will benefit a wide range of audiences, including:

- Casual visitors who will learn about the EcoCenter and surrounding park with new and updated signage, free drop-in programming, and through interpretive materials available 24/7 on a mobile website.
- Public school students and teachers who will benefit from free educational programming that blends science education requirements with experiential and service learning. Reaching students at BVHP and southeast sector schools and at CCSF's two campuses in BVHP will be a top education priority.
- Working professionals, especially in sectors such as green building, low impact design, renewable energy, native landscaping, and habitat restoration, who will use the EcoCenter as a living classroom.
- Drop-in and recurring volunteers, who will find our weekly and monthly workdays a hands-on way to help improve the EcoCenter with shoreline clean ups, native plant restoration, and more.
- Citizens of San Francisco, with emphasis on BVHP and southeast San Francisco communities, who will be represented on TBIAF's Board of Directors, on our staff, and as a guiding entity through the PAC.

**Staffing:** TBIAF will hire new staff who will be folded into existing TBIAF infrastructure, expanding the EcoCenter's capacity with support from key TBAIF Education, Human Resources, Marketing, Development, and other department staff. Anticipated first hires are existing EcoCenter staff who boast extensive knowledge of the EcoCenter, having developed its operations, maintenance, monitoring and educational programming from scratch over the past two years, and who currently live in southeast San Francisco.

**Our goal is for the Heron's Head Park EcoCenter to become a treasured resource for BVHP and an epicenter for environmental education, place-based learning, and green career development for San Francisco and beyond.**





## MEMORANDUM

December 6, 2013

**TO:** MEMBERS, PORT COMMISSION  
Hon. Doreen Woo Ho, President  
Hon. Kimberly Brandon, Vice President  
Hon. Leslie Katz  
Hon. Willie Adams  
Hon. Mel Murphy

**FROM:** Monique Moyer *MMoyer*  
Executive Director

**SUBJECT:** Informational presentation on the mixed-use development project for Seawall Lot 337 and Pier 48 bounded by China Basin Channel, Third Street, Mission Rock Street, and San Francisco Bay and adjacent to AT&T Park

**DIRECTOR'S RECOMMENDATION:** Information Only - No Action Required

---

### EXECUTIVE SUMMARY

The proposed project envisions a development footprint of approximately 3.6 million square feet of mixed uses on eleven (11) development parcels on Seawall ("SWL") 337 that will require new streets, utilities and related infrastructure over several phases and improvements to Pier 48 to house a light industrial manufacturing facility ("Project"). A site plan and project synopsis is attached to this report (Exhibits A & B).

Since approving the Project term sheet and amending the Exclusive Negotiation Agreement ("ENA") this past March (Resolution 13-10), Port, City staff and development partner Seawall Lot 337 Associates, LLC ("Developer") (together the "Project Team") have been diligently pursuing project entitlements. The Project is on schedule to meet current and future ENA benchmarks.

Over the past 8 months, the Project Team has initiated: 1) the environmental review process pursuant to the California Environmental Quality Act ("CEQA"); 2) site design that will result in the Development Controls and Design Guidelines ("DCDG"), the set of written instructions dictating how the site will look and feel to the end user at full build-out; 3) project infrastructure planning including coordination with relevant City agencies; and 4) drafting of transaction documents that will guide the approved Project through construction and formally define the Port's relationship with the Developer.

**THIS PRINT COVERS CALENDAR ITEM NO. 8C**



Today's presentation will brief the Port Commission on items of current focus and a look ahead at Project goals for 2014.

## **THE PROJECT**

The Developer will create a new mixed-use neighborhood linking Mission Bay to the urban fabric of the City by dividing SWL 337 into 11 buildable parcels. The parcels will be developed as a mix of commercial/office, retail, residential uses and structured parking to serve the Project and other nearby uses, including games and other events at AT&T Park. The parties anticipate that the Project will continue to evolve through site design efforts already in process with the City's Planning Department staff, as well as modifications made through CEQA and the public review processes. The final mix of commercial and residential uses will be driven by market timing and market demands.

As discussed below, Pier 48 would be improved for use by Anchor Brewing Company for the expansion of their production capacity.

## **CURRENT FOCUS ITEMS**

### **Environmental Review:**

The Project schedule anticipates publishing the draft EIR in November 2014 and the final EIR in early 2015. To meet this schedule, San Francisco Planning Department's Environmental Planning Division has assigned a capable project manager and hired a consultant<sup>1</sup> to draft the environmental impact report ("EIR") and conduct required public outreach in accord with CEQA. An important step in this process is the issuance of a Notice of Preparation ("NOP") providing notice to the public that the project is in environmental review and inviting their comments regarding the scope of that review. The NOP is anticipated to be issued by City Planning in mid-December 2013.

### **Project Design**

San Francisco Planning Department's Citywide Planning Division has assigned a dedicated team to guide the design for development process. The product of this process is the Development Controls and Design Guidelines document. The DCDG is the guide to designing and constructing Project open spaces, streetscapes, building forms and retail frontages. It formally documents the desired look and feel of the built environment to be approved by the Planning Commission. The Project Team looks forward to returning to the Port Commission with the updated project design as it takes shape over the next several months.

### **Project Infrastructure**

The Project Team has opened discussions with many City agencies including San Francisco Municipal Transit Agency ("SFMTA"), San Francisco Department of Public Works ("SFPDW"), San Francisco Public Utilities Commission ("SFPUC"), Mayor's Office of Disability ("MOD") and San Francisco Office of Community Investment and Infrastructure ("OCII") regarding connecting project infrastructure to the rest of the City. Discussion topics pertain to both on-site and off-site infrastructure as described below.

---

<sup>1</sup> ICF International leads the CEQA consulting team with 7 subconsultants including 4 LBE firms.





**On-Site Infrastructure:**

At this stage of site planning, the Project Team has engaged the City-wide expertise of SFMTA, SFPUC, MOD and SFPDW to inform the design of serviceable streets and open space, and help create a functional neighborhood that responsibly addresses its impact to the sanitary sewer, water supply and power grid

**Off-Site Infrastructure:**

Adjacent to the project, OCII is actively building out the network of streets, parks and infrastructure associated with the Mission Bay plan. It is of vital importance that the SWL 337 Project Team coordinates with OCII to ensure that adjacent streets such as Mission Rock Street, are designed and built to function both for Mission Bay and the Port. A strong collaborative relationship is in place to ensure this outcome.

**Transaction Documents**

The term sheet<sup>2</sup> set the essential terms upon which the Port and Developer will negotiate to reach agreement on the final development agreement, lease and related documents. The Project Team began these negotiations this fall and is making steady progress in weekly meetings to draft foundational transaction documents like the Disposition and Development Agreement ("DDA") with its accompanying Financing Plan. These documents will guide the project over the coming years through full build out.

The transaction documents needed to implement the Project are complex and the Project Team is sensitive to the implications for other Port projects of similar size and scope. For instance, in drafting the financing plan for SWL 337, Port and City representatives from the Pier 70 Waterfront Site development project were invited to participate to ensure this framework would add value to both projects.

Negotiations among the Project Team are anticipated to extend until winter 2014 with progress reports to the Port Commission as part of future informational presentations. At the successful conclusion of the CEQA process, staff will seek the Port Commission's formal approval of the entire suite of transaction documents.

**Jobs and Equal Opportunity Program**

The Project will create thousands of construction and permanent jobs. The planning, design, and construction work will provide substantial contracting opportunities for local contractors and professional service firms as well as countless businesses, employers, and organizations.

The Developer and Port have met with the City's Contract Monitoring Division ("CMD", formerly Human Rights Commission or "HRC") on several occasions to set appropriate goals for the Project. These discussions led to a Third Party Side Agreement ("TPSA") from CMD's Executive Director to Developer, dated December 8, 2011. The TPSA

---

<sup>2</sup> The Port Commission adopted a term sheet with the Developer at its meeting on March 12, 2013. The term sheet and accompanying Fiscal Feasibility Report were endorsed by the Board of Supervisors on May 14, 2013.



states in part, "Based on the information the [Developer] has provided to CMD as well as an assessment of LBEs currently in our directory, the recommended overall LBE goal is 20% with an intermediate goal of 10% during the entitlement phase. The [Developer] agrees to work in good faith with CMD to meet/exceed the recommended LBE goal." Ultimately the Project's Equal Opportunity Program will be memorialized as an attachment to the DDA.

To date, the Project has achieved nearly 14% hiring of LBE's in the entitlement phase. The Developer is committed to maximize the use of small business enterprises as evidenced by the Project's 22% participation rate when state and federally recognized small businesses are included.

## **2014 FOCUS ITEMS**

In addition to continuing the efforts described above, in 2014 the Project Team will engage the issues described below.

- **Affordable Housing:** Refine the Project's affordable housing plan with the Mayor's Office of Housing & Community Development ("MOH"). The term sheet calls for new rental housing development to meet City inclusionary housing requirements.<sup>3</sup> Developer will work with the City, through MOH, the Office of Economic and Workforce Development, and the Port's Planning Department to investigate alternative potential ways to meet current requirements. These alternatives may include a sliding scale specifying a higher percentage of units at higher levels of AMI, resulting in equivalent economic impact to the Master Developer and Port. Affordable housing will be delivered in a balanced manner throughout the phasing of the Project.
- **Pier 48:** Anchor Brewing Company ("Anchor") remains committed to leasing the entirety of Pier 48. Anchor has hired an architectural and engineering team that is now analyzing Pier 48 to determine the scope of improvements needed to expand Anchor's production capacity. In 2014 the Project Team will develop an improvement plan and negotiate lease terms for Anchor's use of Pier 48.
- **Transportation Demand Management Plan:** In 2014 the Project Team will develop a Transportation Demand Management Plan that provides a comprehensive strategy to manage the transportation demands created by the Project. The Project will foster multiple modes of sustainable transportation emphasizing pedestrian, bicycle, and public transit. Importantly, the Transportation Demand Management Plan will interact with and be informed by SFMTA's ongoing waterfront transportation assessment.
- **Sustainability:** The Project Team will continue work on a Sustainability Plan that will provide a comprehensive strategy, identify measurable goals, standards, and performance metrics for inclusion in the Project's DDA. Additionally, the Project Team is currently performing feasibility analyses of on-site (i.e., district) heating and cooling, stormwater treatment and centralized trash collection.

---

<sup>3</sup> The City's inclusionary ordinance calls for 15% of on-site units to be affordable to residents earning 55% of area median income.



- **Bay Conservation and Development Commission (“BCDC”):** The Project Team will continue to pursue required amendments to the Bay Area Seaport Plan sponsored by BCDC and the San Francisco Bay Area Metropolitan Transportation Commission. Currently the Seaport Plan designates Pier 48 as a future site for neobulk cargo shipping and the eastern six acres of SWL 337 adjacent to Pier 48 and Pier 50 as a “Port priority” area to provide backland area for cargo operations. These designations will need to be amended to accommodate the Project’s proposed uses. Amendments to the Seaport Plan may trigger a need to amend BCDC’s San Francisco Waterfront Special Area Plan.
- **Early Activation Plan:** To physically introduce prospective tenants and the existing neighbors to the Project Team’s vision for SWL 337, the Developer is working on an exciting proposal to activate a portion of the site on a year-round basis. More information will be forthcoming in early 2014 as the concept takes shape. The Project Team looks forward to the Port Commission’s and public’s comments on such activation.
- **Public Outreach:** The Project Team will continue a robust public outreach program. Some of the groups we will be meeting with include:

#### Advisory/Regulatory Bodies

- Maritime Commerce Advisory Committee
- Central Waterfront Advisory Group
- Mission Bay Community Advisory Group
- Bay Conservation and Development Commission (staff)
- State Lands Commission (staff)
- Waterfront Design Advisory Committee

#### City Groups

- Chambers of Commerce (including San Francisco, African American, Hispanic and Chinese chambers)
- Rincon/South Beach Neighborhood Group
- Potrero Boosters
- SF Housing Action Coalition Endorsement Committee
- Council of Community Housing Organizations
- SF Bike Coalition
- SPUR
- San Francisco Parks Alliance
- Individual neighbors and business owners

Prepared by: Phil Williamson, Port Project Manager  
Jonathan Stern, Port Assistant Deputy Director,  
Waterfront Development



Michael Martin, Office of Economic and Workforce  
Development, Development Project Manager

For: Byron Rhett, Port Deputy Director  
Planning & Development

**Exhibits**

Exhibit A – Site Map

Exhibit B – Synopsis of Project





THIRD STREET

REALIGNED MISSION ROCK ST.

MISSION ROCK STREET

SEAWALL LOT 337

TERRY A. FRANCOIS BOULEVARD

PIER 48 ACCESS AREA

PIER 48

(SEE SHEET 2  
FOR CONTINUATION)

PIER 50

CHINA BASIN PARK

GRAPHIC SCALE

( IN FEET )  
1 inch = 100 ft.

- SEAWALL LOT 337  
TO EXISTING MISSION  
ROCK STREET  
= 99,197 SQ. FT.  
= 13.63 ACRES
- SEAWALL LOT 337  
TO REALIGNED MISSION  
ROCK STREET  
= 602,395 SQ. FT.  
= 13.83 ACRES
- CHINA BASIN PARK  
( TO MLW )  
= 111,955 SQ. FT.  
= 2.57 ACRES
- PORTION OF TERRY  
FRANCOIS BLVD. TO  
BE CLOSED, INCLUDED  
IN PROJECT AREA  
= 45,863 SQ. FT.  
= 1.05 ACRES
- TERRY FRANCOIS BLVD.  
( PORTION OF STREET  
TO REMAIN )  
= 107,502 SQ. FT.  
= 2.47 ACRES
- PIER 48 ACCESS AREA  
= 26,328 SQ. FT.  
= 0.60 ACRES
- PIER 48  
= 258,405 SQ. FT.  
= 5.93 ACRES

APPROVED BY  
SAN FRANCISCO PORT COMMISSION  
DATE \_\_\_\_\_

CHIEF HARBOR ENGINEER

SAN FRANCISCO PORT COMMISSION  
PORT OF SAN FRANCISCO  
DEPARTMENT OF ENGINEERING

SEAWALL LOT 337  
DEVELOPMENT OPPORTUNITY SITE

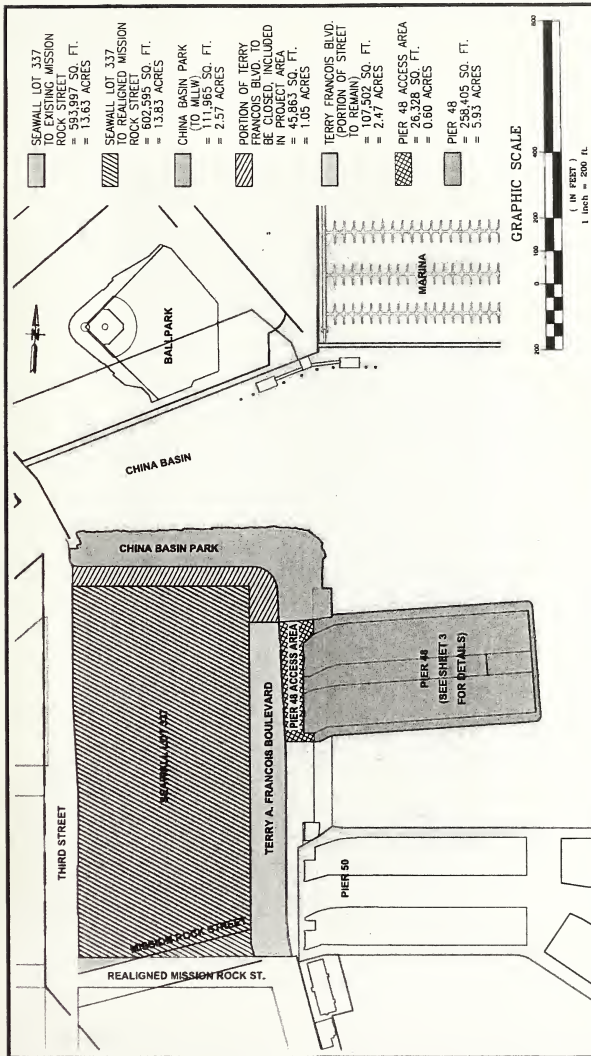
PREPARED BY: AMN  
DRAWN BY: AMN  
CONTRACT NO.  
DRAWING NO.

CHECKED BY: D. OSHIMA  
DATE: MAY 18, 2008  
SCALE: 1" = 120'

SHEET NO. 1  
OF 2 SHEETS

EXHIBIT A





APPROVED BY  
SAN FRANCISCO PORT COMMISSION  
DATE \_\_\_\_\_

CHIEF HARBOR ENGINEER



SAN FRANCISCO PORT COMMISSION  
PORT OF SAN FRANCISCO  
DEPARTMENT OF ENGINEERING

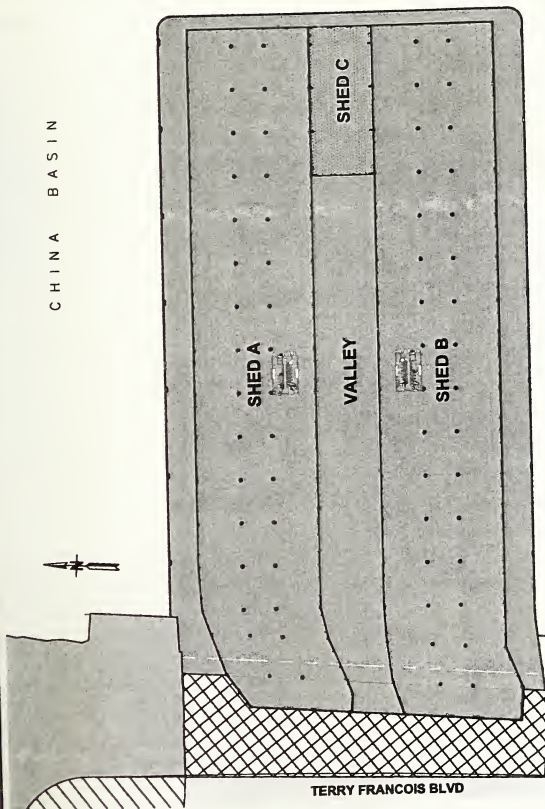
# SEAWALL LOT 337 DEVELOPMENT OPPORTUNITY SITE

PREPARED BY: AMN  
CHECKED BY: D. OSHIMA  
DATE: MAY 19, 2008  
CONTRACT NO. \_\_\_\_\_  
DRAWING NO. \_\_\_\_\_  
SHEET NO. 2  
OF 2 SHEETS



CHINA BASIN

SAN FRANCISCO BAY



## PIER 48

SHED A = 84,649 Sq Ft

SHED B = 86,954 Sq Ft

SHED C = 9,555 Sq Ft

VALLEY = 31,313 Sq Ft

APPROVED BY SAN FRANCISCO PORT COMMISSION DATE	 SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	SEAWALL LOT 337 DEVELOPMENT OPPORTUNITY SITE PIER 48 DETAILS		DRAWN BY: ECC CHECKED BY: CHINA PLOT CODE NO: 1480-00	DATE: MAY 19, 2008 SCALE: 1" = 100' SHEET NO. 3 OF 3 SHEETS
		TERRY FRANCOIS BLVD		SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING CHIEF MARINE ENGINEER	

 SAN FRANCISCO PORT COMMISSION  
 1480-00  
 MAY 19, 2008  
 1" = 100'  
 SHEET NO. 3  
 OF 3 SHEETS

EXHIBIT A



# Mission Rock

## A PROPOSED NEW NEIGHBORHOOD AT SEAWALL LOT 337 & PIER 48

### ■ BACKGROUND

Mission Rock is a proposed mixed-use development at Seawall Lot 337 ("SWL 337") and Pier 48. The Port of San Francisco ("Port"), the Office of Economic and Workforce Development ("OEWD"), and Mission Rock's competitively-selected master developer, Seawall Lot 337 Associates, LLC ("Mission Rock Developer"), have agreed on a development concept and corresponding financial terms for Mission Rock, which are reflected in a non-binding Term Sheet that the Port Commission endorsed on March 12, 2013. If the Board of Supervisors also endorses this Term Sheet and finds the terms to be fiscally feasible, the project team will begin the environmental review process and negotiations for a binding disposition and development agreement.

The Mission Rock project site comprises approximately 25 acres of property owned by the Port, which in its 10-year capital plan has identified \$2.04 billion in Port-wide capital needs and conditional seismic work. These obligations include the preservation of historic piers (such as Pier 48) and other historic structures, as well as the construction and maintenance of waterfront open space. California Senate Bill 815, passed in 2007, allows the Port to use new lease revenues from SWL 337 to further these and other objectives.



Artist rendering of conceptual Mission Rock buildings



### ■ DEVELOPMENT PLAN

With these considerations in mind, the City and Mission Rock Developer have agreed on a development plan that includes:

- Approximately 8 acres of public parks and open spaces, including a 5.2-acre regional waterfront park
- 650 to 1,500 new housing units, 15 percent of them affordable to low-income households
- 1.3 to 1.7 million square feet of commercial space
- 150,000 to 250,000 square feet of retail space, with tenants that create unique local character and activate the parks
- Approximately 3,000 parking spaces within mixed-use buildings and a parking structure, which will serve Giants patrons and Mission Rock occupants and visitors
- The rehabilitation and reuse of historic Pier 48; Anchor Brewing Company is working with the Port, City, and Mission Rock Developer to expand its San Francisco brewing/distilling operations to Pier 48







## ■ FINANCIAL DEAL STRUCTURE

The City and Port's contribution will be the SWL 337 and Pier 48 properties and property tax increment generated by the project, utilized through an Infrastructure Financing District. The Mission Rock Developer will entitle the project and provide the capital for all infrastructure (roads and utilities), public amenities (parks and open spaces), and possibly a portion of Pier 48's rehabilitation. These public facility costs are estimated at \$20 million for entitlement, \$106 million for infrastructure and parks, and \$22 million for Pier 48 (all values in 2013 dollars).

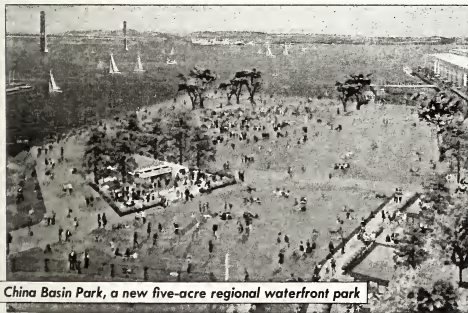
The rights to construct buildings at SWL 337 will be controlled through separate leases, each with its own financial terms and lasting 75 years. Each of Seawall Lot 337's ten development parcels, which do not include the land dedicated to the parks and parking garage, will be leased at fair market value to a "vertical" developer, which may be an affiliate of the Mission Rock Developer. The leasehold value will be converted into up-front and ongoing payments intended to 1) reimburse the Mission Rock Developer's expenditure, with a market-based return on equity, and 2) provide rental revenues to the Port. The splits between equity repayment and rent will vary by

development parcel, depending on market conditions, the parcel's funding needs, and the timing and cost of public financing.

For the first two development parcels, all fair market value paid by the vertical developers will be devoted to retiring the Mission Rock Developer's predevelopment costs and associated return on equity, with no rent payments anticipated. This strategy benefits the Port by paying off the predevelopment costs quickly, which limits the return on equity that can accrue to the Mission Rock Developer.

The remaining eight development parcels will provide rent to the Port in addition to repaying the Master Developer's infrastructure costs. The Term Sheet sets a minimum annual "reserve rent" of \$3.5 million for these eight parcels, though current market-based estimates project \$4.5 million per year. The Term Sheet also contains multiple mechanisms to increase revenues to the Port as Mission Rock becomes more valuable over time.

The Port may seek approval to lift the Public Trust from up to two of the development parcels and sell them outright instead of leasing them for 75 years. In that case, the Mission Rock Developer would have the option to purchase one or both parcels for a premium above appraised fair market value.



China Basin Park, a new five-acre regional waterfront park

## ■ ECONOMIC AND FISCAL BENEFITS

Mission Rock is expected to create 10,130 jobs during construction and 11,100 fulltime jobs when fully built. Taxes paid by Mission Rock's residents, businesses, and visitors are projected to generate an additional \$21.4 million for the City each year, though a portion of those proceeds may be used help fund Mission Rock's infrastructure. The City will also receive an estimated \$60.2 million in one-time development impact fees and tax revenues associated with construction.

*For more information, please contact:*

Michael Martin | Project Director, Office of Economic and Workforce Development | [michael.martin@sfgov.org](mailto:michael.martin@sfgov.org)

Phil Williamson | Project Manager, Port of San Francisco | [phil.williamson@sfpport.com](mailto:phil.williamson@sfpport.com)





## MEMORANDUM

December 6, 2013

**TO:** MEMBERS, PORT COMMISSION  
Hon. Doreen Woo Ho, President  
Hon. Kimberly Brandon, Vice President  
Hon. Leslie Katz  
Hon. Willie Adams  
Hon. Mel Murphy

**FROM:** Monique Moyer *MMoyer*  
Executive Director

**SUBJECT:** Request approval of Third Amendment to Lease No. L-15169 with Autodesk, Inc. a Delaware corporation ("Autodesk") for approximately 3,400 square feet of unimproved shed space located at Pier 9, subject to approval by the Board of Supervisors

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution

---

### **Executive Summary**

Port staff is seeking approval of a Third Amendment to Port Lease No. L-15169 with Autodesk, Inc. a Delaware corporation ("Lease") to add approximately 3,400 square feet of unimproved Pier 9 shed space to its Premises ("Amendment") subject to approval by the Board of Supervisors. The Amendment is an expansion of Autodesk's existing premises and will be converted to laboratory space.

### **I. BACKGROUND**

Autodesk is an American multinational corporation that focuses on 3D design software for use in the architecture, engineering, construction, manufacturing, media and entertainment industries. Autodesk is a tenant in good standing.

On September 11, 2012 the Port Commission first approved the Lease for approximately 8,391 square feet of Pier 9 space for a term of sixty-six (66) months. At the October 23, 2012 meeting the Port Commission approved a lease amendment that added approximately 18,499 square feet making the total Premises approximately 27,190 square feet and extending the term to ten (10) years. The Board of Supervisors approved the amendment in Board of Supervisors Resolution 0007-13 and the amended Lease became effective on January 23, 2013.

**THIS PRINT COVERS CALENDAR ITEM NO. 9A**



The Lease expires on January 22, 2023. To date, Autodesk has made \$12 million in capital improvements to Pier 9 and is currently paying \$443,940.00 in annual rent net of any rent credits as provided by the Lease.

Autodesk now desires to lease additional space to accommodate its robotics research and development laboratory. Port staff and Autodesk have mutually agreed on terms and conditions contained in the proposed Amendment now before the Port Commission for approval. The Amendment adds approximately 3,400 square feet of Pier 9 shed space that is currently unimproved (i.e. un-built) and is used for passenger vehicle parking. See attached location map.

The Amendment requires Autodesk to invest a minimum of \$2,040,500 dollars in base building core and shell and tenant improvements. The project includes enclosing the site and construction of a 2,000 square foot second floor mezzanine, incorporating the new premises with the existing premises, site preparation and demolition, structural and interior upgrades to the floor slab, beams and girders, new wall enclosures, new stairs for circulation and exiting, and Americans with Disabilities compliant bathroom, new plumbing (i.e. water, sewer lines to service the premises), new heating, ventilation, and air conditioning system, new electrical service and distribution, new store fronts within the exterior roll up door openings along the south side of the pier, installing rolling doors to access the drive aisles, replacement of a portion of the steel sash windows consistent with the Secretary of the Interior Standards for the Rehabilitation of Historic Buildings, and other interior and exterior improvements. The existing parking spaces in the site area would be eliminated.

## **II. ANALYSIS**

This Amendment is brought before the Port Commission because the lease term, the rent abatement period, and the amortized credit exceed the criteria found in the Commission approved business parameters. Except as noted below, all other terms and conditions, including rental rate, conform to the Port Commission's previously approved business parameter terms and conditions.

The initial monthly rent prior to rent credit deductions is \$4,590 or \$1.35 per square foot for the unimproved shed space which is slightly higher than the Port Commission parameter rental rate for FY 2013/2014 for unimproved shed space at Pier 9.

Autodesk will make a significant capital investment in Port property in the amount of approximately \$2,040,500 or \$600 per square foot for base building core and shell and tenant improvements. In consideration of this investment into Port property, the Amendment provides for a 180-day rent-abatement period in the amount of \$27,540.00 or \$8.10 per square foot for the construction of the Improvements. Section 1.5 of the Work Letter a material part of the Lease does allow the Executive Director at her sole discretion the ability to extend the time for tenant's performance including granting up to a 60-day extension to the rent abatement period. In such instances it is incumbent upon the tenant to demonstrate that Port actions contributed or caused delays to the completion of the project.

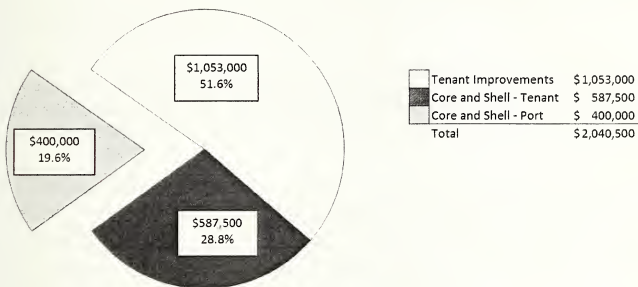


The Amendment also includes rent credits only for the base building core and shell improvements in the amount of \$400,000 that may be deducted in equal installments of \$3,704 per month starting the later of month 7 or the date the Port issues a certificate of completion for the Improvements until expiration of the term. The total rent credit equals \$118 per square foot or 19.6% of the total construction budget. The difference between Autodesk's investment and the rent abatement is \$482.14 per square foot equaling \$1,639,299 in net capital investment made directly by Autodesk into Port property or 80.4% of the total construction budget.

This chart summarizes the amount of improvements at the premises that will be funded by the Port through rent credits and improvements funded by Autodesk.

Port Investment

Autodesk Investment



This chart summarizes the type of improvements at the premises that will be funded by rent credits.

Major Core and Shell improvements (Reimbursed by Credits)	Tenant Improvements Not Funded By Credits
ADA Bathroom	Carpet, Paint, and Wall Coverings
Wall Construction to Enclose Premise	Cabinets and Fixtures
Heating Ventation and Air-conditioning	Lighting System
Fire Sprinkler System	Kitchen and Appliances
Floors	Internal Demising Walls
New Electrical and Natural Gas Service	Interior Doors and Windows
Structure Supports and Seismic Bracing	Room/Space Partitions

Assuming maximum rent credits are given, the net rent paid to the Port for the expansion premise for the lease term is shown in the table below.

Total Rents Paid	Core and Shell Credit	Total Net Rent Received
\$542,916.53	(\$400,000.00)	\$142,916.53





In the previous negotiations for this Lease, the Port and Autodesk agreed to some changes to the Port's form lease. Below is a summary of material differences between the Lease and the Port's form lease which will also apply to the Third Amendment.

- Autodesk, a multi-billion dollar corporation, not a single-asset entity, is signing the Lease. Accordingly, in lieu of a payment and performance bond generally required for construction of improvements on Port property, Port will instead receive a deposit in the form of cash or letter of credit to protect the Port if Autodesk fails to complete the Improvements (as defined in Section II of this staff report) within 180 days after commencement of the term.
- In the event Port fails to maintain and repair the exterior portions of Pier 9 (such as the roof, roof membrane, and exterior walls and doors), then Autodesk at its sole cost and expense, is permitted to make repairs to the exterior portions of the Pier 9 facility with Port's prior consent.
- The standard language in the Port's form lease does not allow a tenant that may be displaced by damage and destruction any right to re-lease its premises following repairs therefor. The Lease provides Autodesk with a right of first offer to re-lease the premises following damage and destruction to its premises or to Pier 9.
- This Lease includes a modification to the definition of Habitual Late Payer (reflected in *italics*) to mean tenant has received (a) at least two (2) notices of *material* monetary default, or (b) at least three (3) notices of *any material non-monetary default* within a twelve (12) month period. In exchange for modifying the definition, if Autodesk is deemed to be Habitual Late Payer, Autodesk will be obligated to pay rent in advance on a quarterly basis.
- This Lease does not provide Port with an option to recapture any proposed sublease area if Autodesk requests Port's consent to a sublease. All other sublease provisions remain unchanged.
- Other than Autodesk's indemnification obligations related to hazardous materials and hold over obligations, neither Port nor Autodesk is liable for any indirect, consequential, special, exemplary, incidental or punitive damages arising from the Lease.
- Port has no unilateral right to terminate in connection with Port development projects.
- This Lease provides that monthly rent for holding over after expiration of the term with Port consent will be increased by 125%; and without Port consent, by 150%.
- This Lease provides for a 5% default interest rate.
- This Lease includes a unilateral right for Autodesk to terminate until the last day of the sixtieth-month (60th) of the Lease without penalty provided that it



completes all required improvements; Autodesk will not have rights to any unamortized or outstanding rent credits if it terminates.

### III. CLIMATE CHANGE

The original Autodesk lease was built to a LEED Platinum standard. The Phase 1 office was the Port's first LEED Platinum Commercial Interior (CI) project. The proposed Third Amendment will also be built to a LEED Platinum standard and shall include proposed solutions to reduce negative environmental impacts of the building operations. Areas to address are: installation of a roof top solar voltaic system to reduce Green House Gas ("GHG") emissions, installation of electric vehicle charging stations, providing car and bike share facilities, limits on idling vehicles and other such measures as prudently practical.

### IV. AMENDMENT TERMS

<b><i>Tenant:</i></b>	Autodesk, Inc. a Delaware corporation
<b><i>Lease Number:</i></b>	L-15169
<b><i>Expanded Premises:</i></b>	Approximately 3,400 square feet of unimproved shed space located at Pier 9.
<b><i>Lease Commencement Date:</i></b>	Upon approval by Board of Supervisors
<b><i>Rent Commencement Date:</i></b>	One-Hundred Eighty (180) days after the Commencement Date
<b><i>Lease Expiration Date:</i></b>	January 22, 2023
<b><i>Initial Monthly Rent:</i></b>	\$4,590.00
<b><i>Rent Adjustment</i></b>	3% increase on each anniversary of the Rent Commencement Date.
<b><i>Use:</i></b>	Research and development office and work space
<b><i>Tenant Improvements:</i></b>	No less than \$2,040,500 of core and shell and tenant improvements, including a one hour fire rated common corridor from the interior pier shed drive aisle to the south apron, within 180 days of the Commencement Date
<b><i>Bar Pilots Gate:</i></b>	As part of the Tenant Improvements, Tenant, at its sole cost and expense, must reconfigure the Bar Pilots access gate. Tenant is required to provide a letter from the Bar Pilots agreeing to the gate reconfiguration prior to Port's execution of the Amendment.
<b><i>Rent Abatement Period:</i></b>	180 days (can be extended by an additional 60 days by Executive Director)



<b><i>Rent Credit:</i></b>	Tenant shall receive a maximum rent credit in the amount of \$400,000.00 that may be deducted from the monthly rent starting the later of month 7 or the date Port issues a certificate of completion for the Improvements until expiration of the term. Rent credits are only for core and shell improvements and are contingent on the completion of the Improvements.
<b><i>Performance Bond:</i></b>	In lieu of a payment and performance bond generally required for construction of improvements on Port property, Port will instead receive a deposit in the form of cash or letter of credit to protect the Port if Autodesk fails to complete the Improvements (as defined in Section II of this staff report) within 180 days after commencement of the term.
<b><i>Security Deposit:</i></b>	Tenant shall add to its existing Security Deposit to equal to two (2) month's total Base Rent due in the last year of Lease.
<b><i>As Is:</i></b>	The Expanded Premises shall be accepted in its "as is" condition.
<b><i>Insurance:</i></b>	Tenant shall provide standard insurance coverage acceptable to Port and City Risk Manager.
<b><i>City Requirements:</i></b>	The Amendment will include updated City and Port requirements.

## **VI. RECOMMENDATION**

Port staff recommends that the Port Commission approve the attached Resolution approving the Third Amendment to Lease No. L-15169 with Autodesk, Inc. a Delaware corporation, for additional premises located at Pier 9 on such additional terms and conditions as described in this staff report, subject to Board of Supervisors' approval.

Prepared by: Jeffrey A. Bauer, Senior Leasing Manager

For: Susan Reynolds, Director of Real Estate



**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 13-52**

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of the City and County of San Francisco; and
- WHEREAS, Pier 9, located at Broadway and The Embarcadero in the City and County of San Francisco, is in the Northeast Waterfront area of the Waterfront Land Use Plan; and
- WHEREAS, Autodesk, Inc. a Delaware corporation ("Autodesk") currently leases approximately 27,190 square feet in Pier 9 under Lease No. 15169 which expires on January 22, 2023 (as amended, the "Lease") which was approved by the Port Commission and the Board of Supervisors; and
- WHEREAS Port staff has negotiated a third amendment to the Lease to add the adjacent approximately 3,400 rentable square feet to the Lease, at an initial rental rate of \$4,590.00 per month or \$1.35 per square foot, on the terms described in the staff report accompanying this resolution; and
- WHEREAS, the Amendment provides for a one hundred eighty (180) day free rent period and total rent credits in the maximum amount of \$400,000.00 in consideration for Tenant's construction, at its sole expense, of a minimum of \$2,040,500 of core and shell and tenant improvements (collectively, "Improvements") which will have value to the Port following the end of the Lease term; and
- WHEREAS, the Lease contains other material terms and conditions that differ from the Port's form lease that were previously approved by the Port Commission, which differences are further described in the staff report accompanying this Resolution; and
- WHEREAS, the permitted uses in the Amendment are a continuation of existing and related uses and are therefore covered under the General Rule Exclusion pursuant to the California Environmental Quality Act; now, therefore be it
- RESOLVED, that the Port Commission approves the Amendment subject to approval by the Board of Supervisors and upon such approval authorizes the Executive Director or her designee to execute the Amendment; and, be it further





RESOLVED,

that the Port Commission authorizes the Executive Director or her designee to enter into any additions, amendments or other modifications to the Amendment that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligations or liabilities of the City or Port or materially decrease the benefits to the City or Port, and are necessary or advisable to complete the transactions which the Amendment contemplates and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director or her designee of the Amendment, and any such amendments thereto.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 12, 2013.***

---

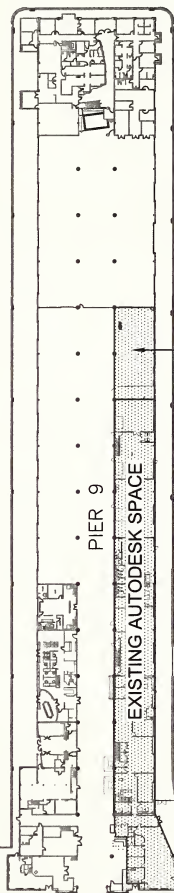
Secretary



PIER 15



SAN FRANCISCO BAY



THE EMBARCADERO

PROPOSED ADDITIONAL  
AUTODESK SPACE

SAN FRANCISCO BAY

PIER 7 1/2  
(WATERFRONT RESTAURANT)

SAN FRANCISCO PORT COMMISSION  
PORT OF SAN FRANCISCO  
DEPARTMENT OF ENGINEERING

TENANT

AUTODESK

DRAWN BY: ECC  
CHECKED BY: J. BAUER  
PLACE CODE NO.

DATE: SEP 12, 2013  
SCALE: 1" = 100'

SHEET NO.

1090-00

OF  
SHEETS





## MEMORANDUM

December 6, 2013

**TO:** MEMBERS, PORT COMMISSION  
Hon. Doreen Woo Ho, President  
Hon. Kimberly Brandon, Vice President  
Hon. Willie Adams  
Hon. Leslie Katz  
Hon. Mel Murphy

**FROM:** Monique Moyer *MMoyer*  
Executive Director

**SUBJECT:** Request approval of: (1) the issuance of the Port of San Francisco's Series 2014 Revenue Bonds (the "2014 Port Revenue Bonds") to fund certain capital improvements on Port property, in the aggregate principal amount not to exceed thirty million dollars (\$30,000,000) with an interest rate not to exceed twelve percent (12%) per annum; (2) the form of the Second Supplement to Indenture of Trust, between the Port and a trustee; (3) the sale of the 2014 Bonds by negotiated sale pursuant to a bond purchase contract; (4) authority to enter into contract with the underwriter team selected by the Port's Executive Director; and (5) the form of a bond purchase contract, with a not to exceed underwriter's discount and true interest cost, between the Port and the selected underwriter team

### DIRECTOR'S RECOMMENDATION: Approve attached Resolution

#### Background

The Port faces the challenge of limited resources to address an aging infrastructure in need of investment to enhance and maintain the assets. The Port's \$1.6 billion in deferred capital costs prevent it from leveraging investment opportunities and is resulting in facilities becoming unsafe and unusable. To address this challenge, the Port Commission has put in place a Capital Policy, which requires a minimum annual investment equal to 20% of operating revenue in capital. The annual capital investment amounts to approximately \$17 million per year, or 1% of the Port's \$1.6 billion in deferred capital costs.

The Port Commission has also put in place a debt program which allows the Port to make larger investments in key business lines and facilities. The Capital Policy with the

**THIS PRINT COVERS CALENDAR ITEM NO. 10A**



debt program allows the Port to address chronic infrastructure needs and prioritize facility enhancements for mission critical lines of business and strategic facilities. The proposed 2014 Port Revenue Bonds will provide financing for the Port's mission critical James R. Herman Cruise Terminal and will address deferred capital needs in historic piers to support private leasing activity.

Section 9.112 of Article IX of the City and County of San Francisco Charter (the "Charter") entitled "Revenue Bonds of the Port Commission" gives the Port Commission exclusive power to perform or accomplish issuance of revenue bonds for Port-related purposes. Chapter 43, Article XII of the San Francisco Administrative Code entitled "Port Commission of the City and County of San Francisco Revenue Bond Law" authorizes the Port Commission to issue revenue bonds for any Port-related purpose and secured solely by Port revenues, subject to the approval of the Board of Supervisors. On May 14, 2013, the Port Commission approved a financing plan that includes the issuance of Port revenue bonds in an amount not to exceed \$25.3 million for Phase II of the James R. Herman Cruise Terminal project and the Northern Waterfront Historic Pier Structure Repair project. This approval was subject to Port Commission review of the financial structure of the bond transaction and details of the specific projects included in the Northern Waterfront Historic Pier Structures Repair project. While the proposed project financing is the same, the overall amount has increased \$4.7 million to \$30 million to allow for greater flexibility pending sale to address any changes in market conditions and bond structuring.

This item provides details of the Port's existing debt obligation and capital plans, the proposed projects to be financed with proceeds of the 2014 Port Revenue Bonds, the financial impacts of the proposed financing plan, and the proposed financing structure. Port staff requests Port Commission approval of associated documents for the 2014 Port Revenue Bonds, and authorization for the Port's Executive Director to enter into a contract with a preferred underwriter team following an informal solicitation to the Controller's Office of Public Finance's as-needed pool of qualified underwriters. The Port Commission is not being asked at this time to approve the Preliminary Official Statement and Continuing Disclosure Certificate which are still being prepared. Port staff expects to return on January 14, 2014 for Port Commission review and approval of those documents.

### **Existing Debt Obligation and Capital Plans**

The Port issued revenue bonds on February 3, 2010 (the "2010 Bonds") in the amount of \$36.65 million (current outstanding balance of \$34.8 million) to finance the design, construction, reconstruction, repair and/or improvements to Piers 19 or 23, 33, 35 and 50, Phase I of the James R. Herman Cruise Terminal and Piers 94-96 Backlands project. The 2010 Bonds were issued in two series: Series A Non AMT Tax Exempt and Series B Taxable to reflect the mix of maritime and non-maritime private uses. The annual debt service on the 2010 Bonds is approximately \$2.8 million through 2030 and \$1.9 million thereafter through 2040. The 2010 Bonds were issued pursuant to an Indenture of Trust, dated as of February 1, 2010, as supplemented by the First Supplement to Indenture of Trust, dated as of February 1, 2010 (the "Existing Indenture").





At the time the Port issued the 2010 Revenue Bonds, staff expected to issue a second bond financing within two years to fund construction of the cruise terminal and the Piers 19 or 23 project. The Port pivoted capital plans to respond to the City's successful bid for the 34<sup>th</sup> America's Cup (AC34) and the approved Lease Disposition Agreement (LDA) with the America's Cup Event Authority (Event Authority) which shifted approximately \$25 million of AC34-related infrastructure improvements, mitigation requirements and Cruise Terminal Project scope from the America's Cup Event Authority to the Port. In order to complete capital improvements to prepare for the events, in April 2012 the Port Commission approved a \$52.2 million plan of finance which included \$38.46 million of City issued Certificates of Participation (COPs), \$9.2 million reallocation from 2010 Bond projects (the Piers 94-96 Backlands project, Amador Street,<sup>1</sup> and the Pier 35 Substructure), and \$4.5 million reallocation of Port capital funds. The plan of finance resulted in completion of Phase I of the James R. Herman Cruise Terminal, installation of shore side power at Pier 70, improvements to Piers 19, 23, 27, 29, 30-32 and 80, and public access enhancements and fill removal.

In October of 2013, the City caused the execution and delivery of COPs on behalf of the Port in the aggregate principal amount of \$37.7 million. This approach allowed the Port to take advantage of the City's stronger credit and relatively lower cost of borrowing and reflected the benefit to the City of the projects financed by the COPs. Annual debt service on the COPs is \$2.8 million through 2023 and \$2.0 million thereafter through 2043.

Now that the Port has successfully completed the public works projects required under the LDA for the 34<sup>th</sup> America's Cup, Port staff recommends Port Commission approval of 2014 Port Revenue bonds for Phase II of the James R. Herman Cruise Terminal Project and a new Northern Waterfront Historic Pier Structures Repair project, returning to capital programming originally planned in 2010. The ongoing intent of the bond program is to continue to replenish the Port's bonding capacity through enhanced net revenues so that the Port Commission can authorize new revenue bond issuances every three to five years to invest in the Port's asset portfolio and address the backlog of deferred capital maintenance.

### **Proposed 2014 Port Revenue Bond Funded Projects**

Attached is a resolution authorizing the issuance, of the 2014 Port Revenue Bonds in an amount not to exceed \$30 million. Anticipated expenditures for the 2014 Port Revenue Bonds are as follows:

---

<sup>1</sup> Port staff continues to conduct due diligence and design for Amador Street and the Piers 94-96 Backlands project and will return to the Port Commission with a plan of finance once these projects are ready for funding.



**Table 1 – Project Descriptions**

<b>Project Description</b>	<b>2014 Bond Allocation</b>
<b>Phase II of the James R. Herman Cruise Terminal</b> – Project consists of finishing the remaining portions of the cruise terminal building, including the U.S. Customs and Border Protection facilities, building out the Northeast Wharf Plaza and North Point, the ground transportation area, apron and substructure repairs, installation of maritime equipment such as the mobile gangway system, fenders and bollards, electrical upgrades, and provision of miscellaneous furniture and equipment. The sources for the total Phase II project cost of \$47.7 million include General Obligation Bond proceeds for the park improvements and a FEMA grant for security improvements.	\$19,532,000
<b>Northern Waterfront Historic Pier Structures Repair Project – Pier 29½ and Pier 31.</b> Project consists of structural repairs to the superstructure (columns, beams, truss members, and roof decking), exterior apron deck reconstruction, window repairs, provide and repair doors to the apron for egress and safety ladders for roof access, removal and replacement of roofing and miscellaneous sheet metal caps and flashing, and provide plumbing and electrical infrastructure needed for restrooms, lighting and potential tenant needs. The sources for the total project cost of \$6 million include reallocated proceeds of the 2010 Bonds.	917,000
<b>Northern Waterfront Historic Pier Structures Repair Project – Pier Improvements.</b> Project consists of capital improvements to support private leasing activities, which may include substructure work for Pier 29 and/or historic window rehabilitation. The project is intended to provide funding for capital improvements to upgrade and re-lease vacant facilities.	1,026,000
<b>Project total</b>	<b>\$21,475,000</b>
<b>Bond Issuance Costs</b>	766,200
<b>Debt Service Reserve Fund</b>	1,708,800
<b>Total 2014 Anticipated Revenue Bond Uses</b>	<b>\$ 23,950,000</b>
<b>Additional Authorization Pending Sale</b>	6,050,000
<b>Total</b>	<b>\$30,000,000</b>

The 2014 Port Revenue Bonds would be issued pursuant to a Second Supplement to Indenture of Trust, which would amend and supplement the Existing Indenture.

The debt service reserve fund will be used to pay debt service if the Port's revenues pledged to pay debt service are insufficient and shall be replenished at such time. The Port will to fund the debt service reserve at the lesser of (a) maximum annual debt service, (b) 125 percent of average annual debt service, or (c) 10 percent of the outstanding principal amount of the bonds.

While Port staff currently expects to issue \$24 million in principal amount of 2014 Port Revenue Bonds, the added authorization of up to \$30 million gives Port staff sufficient



flexibility to address any changes in interest rates, market conditions, and bond structuring between now and when the 2014 Port Revenue Bonds are sold. A portion of the 2014 Port Revenue Bond proceeds designated for project costs may be used to refinance commercial paper issued by the City for Phase II James R. Herman Cruise Terminal costs.

### **Financial Impact of Proposal: Port's Bonding Capacity and Debt Service Coverage**

As discussed above, the Port pays annual debt service on its 2010 Revenue Bonds (outstanding in the principal amount of \$34.8 million) and on the City's COPs (outstanding in the principal amount of \$37.7 million). The average annual debt service payments associated with these obligations are approximately \$5.6 million through 2023, \$4.8 million through 2031, \$4 million through 2040, and \$2.0 million through 2043.

The annual net revenue of the Port, calculated in accordance with the Existing Indenture, has averaged \$15 million over the past 10 years, with a high of \$18.6 million and a low of \$9.3 million. FY 2012-13 closed with net revenues available to service bond debt of \$18.6 million. Due to the impact of economic recovery on the Port's revenues, with revenue growth averaging 5% per year slightly outpacing growth in operating expenses, Port staff estimates that net revenues available to service bonded debt will average \$20.0 million over the debt period with estimated debt capacity of approximately \$48.8 million.<sup>2</sup> The projection is based on the Port's five-year financial forecast last updated in February of 2013. Port staff is reviewing financial projections and will present the final analysis in the Preliminary Official Statement when it comes back to the Port Commission to approve that document.

The proposed 2014 Revenue Bonds would fund \$21.5 million in projects (as provided above). The proposed Passenger Facility Charge (PFC) of \$6 per passenger for 30 years is estimated to add revenue sufficient to pay debt service on \$16.8 million in Cruise Terminal projects and associated bond issuance costs. Thus, issuance of \$16.8 million of the 2014 Revenue Bonds has a neutral impact on the Port's bond capacity. The remaining \$7.15 million will reduce the Port's current remaining bonding capacity to approximately \$41.65 million.

This issuance of 2014 Port Revenue Bonds will add approximately \$1.71 million in annual debt service, increasing the overall payment obligation from \$5.6 million to \$7.3 million through 2023 with lower annual payments thereafter.<sup>3</sup> This is within the Port's estimated bonding capacity, with estimated minimum debt service coverage of approximately 4.65 times debt service on the Port's revenue bonds and 2.91 times debt service on the Port's Revenue Bonds and the City's COPs over the forecast period. An

---

<sup>2</sup> Assumed annual net revenues of \$20.0 million (does not include proposed \$6 PFC revenue) in FY2016 and thereafter, annual interest rate expense of 6% and debt service coverage of 2x.

<sup>3</sup> In addition, the Port has loan obligations that do not impact its coverage but bring its total debt service to \$7.6 million.



increase in interest rates (yields on the Bonds) at the time of sale would result in increased debt service obligation which would result in lower debt service coverage.

The table below reflects annual debt service and minimum debt service coverage levels associated with a \$30 million issuance (the full authorization amount) at a 7% blended interest rate. As reflected below, even at the full authorization issuance amount, the Port's coverage levels remain strong. The Port does not anticipate issuing the full authorization amount unless prevailing market conditions and bond structure at the time of sale require the Port to do so.

Average Annual Debt Service	\$ 2.41 million
TIC	7.06%
Minimum debt service coverage (Port Revenue Bonds)	4.03x
Minimum debt service coverage (Port Revenue Bonds and City COPs)	2.65x

*Table 2: Use of 2014 Revenue Bond Proceeds and Impact on Debt Capacity*

<b>Use of Bond Proceeds</b>	<b>Amount</b>
Cruise Terminal	19,531,611
Northern Waterfront	1,943,389
Bond Issuance Costs	766,200
Debt Service Reserve Fund	1,708,800
	<b>23,950,000</b>
	<b>Bond Amount</b>
<b>2014 Bond Amount Supported by Proposed PFC Revenue Stream</b>	16,800,000
<b>2014 Bond Amount Supported by Port Operating Revenue</b>	7,150,000
	<b>23,950,000</b>
<b>Impact to Port Revenue Bond Capacity</b>	
Current Capacity	48,800,000
Less 2014 Bond Amount Supported by Port Operating Revenue	(7,150,000)
<b>Remaining Capacity</b>	<b>41,650,000</b>

### **Proposed Financing Structure**

The primary use of the proposed 2014 Port Revenue bonds is the James R. Herman Cruise Terminal project which categorizes the related portion of the 2014 Port Revenue Bonds for tax exempt treatment as qualified private activity bonds (docks and wharves). Interest income paid on the portion of bonds attributable to the cruise terminal is subject





to alternative minimum tax (AMT)<sup>4</sup> under the Federal tax code. The Northern Waterfront Historic Pier Structures Repair project would benefit private sector tenants in connection with uses that are not primarily maritime in nature and therefore do not qualify for tax exempt debt status. The 2014 Revenue Bonds will be issued in two series: Series A (AMT) and Series B (Taxable) to reflect the mix of maritime and non-maritime private uses. As a result, the 2014 Port Revenue Bonds will be a mix of taxable and AMT bonds which will result in a mix of interest rates.

Under current market conditions, the Port could issue approximately \$24 million in 2014 Port Revenue Bonds at a 5.90% blended interest rate assuming the Port maintains its credit rating.<sup>5</sup> Under this scenario, the average annual debt service would be approximately \$1.71 million and the maximum annual debt service would be \$1,708,800. However, as described in more detail below, to be more conservative, Port staff also analyzed a blended 7% interest rate which would result in average annual debt service of approximately \$1.9 million. To provide flexibility as well as a cap on the level of interest rates the Port will consider paying on the revenue bonds, the attached resolution states that the interest rate will not exceed 12%, the maximum allowable under the California State constitution.

The 2014 Port Revenue Bonds are expected to sell at the end of February or early March 2014 depending on the dates of the Board of Supervisors' and Mayor Edwin Lee's final approval of the legislation.

Port staff intend to issue the 2014 Port Revenue Bonds through a negotiated sale with an underwriter and co-underwriter, selected through an informal solicitation to the Controller's Office of Public Finance's as-needed pool of qualified underwriters. The solicitation was structured to encourage Local Business Enterprises (LBEs) to respond for the co-underwriter opportunity. The attached Resolution authorizes the Port's Executive Director to enter into an underwriting contract in an amount not to exceed 0.6% of the principal amount of the Bonds with the preferred underwriter team following an informal solicitation from the as-needed pool. The Director of the Controller's Office of Public Finance will advise the Executive Director in this selection.

The negotiated sale will afford the Port more flexibility in regards to changing the sale date or the structure of the issue in attempts to obtain lower interest rates. Port staff believes that a negotiated sale is more appropriate at this time given the size of the issuance and the credit quality of the bonds.

---

<sup>4</sup> The Alternative Minimum Tax (AMT) is a federal income tax which applies to certain investors pursuant to their Federal tax bracket and allows such taxpayers to claim some or all of the interest income as tax-exempt.

<sup>5</sup> The Port's revenue bond ratings are A1/A-/A by Moody's, Standards & Poor's and Fitch respectively.



1. Financing Structure:

Debt Service -

- A. Market Estimate: Based on the current market conditions for "A" rated municipal revenue bond debt, the corresponding True Interest Cost (TIC) estimate is 5.90%. This is the interest expense of the 2014 Bonds or the rate compounded semi-annually, necessary to discount the amounts payable on the principal and interest payment dates to the purchase price received for the new issue of bonds. In other words, it's the average weighted interest rate aggregated for the individual bond maturities.

Average Annual Debt Service	\$1.71 million
TIC	5.90%
Minimum debt service coverage (Port Revenue Bonds)	4.65x
Minimum debt service coverage (Port Revenue Bonds and City COPs)	2.91x

To be conservative, a second scenario is based on a 7% True Interest Cost which is 116 basis points greater than the current market conditions for "A" rated municipal debt. Since the market fluctuates, staff believes it is prudent to anticipate a higher interest rate.

- B. 7% Interest Rate: This structure assumes a 7% blended interest rate on all the 2014 Bonds. A higher interest rate corresponds to higher annual debt service and therefore lower debt service coverage.

Average Annual Debt Service	\$1.95 million
TIC	7.0%
Minimum debt service coverage (Port Revenue Bonds)	4.42x
Minimum debt service coverage (Port Revenue Bonds and City COPs)	2.82x

As described in the two tables above, the Port's average annual debt service would be \$250,000 less if the Port's bonds are sold at a 5.90% interest rate rather than 7.0%. However, the Port's current five-year financial forecast assumption of \$7.66 million in FY 2014-15 for debt service is sufficient to cover the debt service costs of either scenario. The forecast includes the revenue amounts set asides to meet the Port Commission 15% operating reserve and 20% operating revenue to capital policies.

2. Bond Structure

The 2014 Port Revenue Bonds will have a term of thirty (30) years with annual payments which are almost equal, i.e., aggregate level debt service. The preliminary bond structure amortizes the more expensive taxable 2014B Bonds



in the first ten (10) years to take advantage of lower interest rates associated with shorter term debt. The less expensive AMT 2014A Bonds wrap around the taxable 2014B Bonds to achieve an aggregate level debt service structure for the 2014 Port Revenue Bonds. The bond structure will be finalized closer to the bond sale date based on prevailing market conditions. A preliminary cash flow table of estimated debt service on both series is presented in the following table. As noted in the column titled, "Total 2014AB Debt Service", the combined annual payment is approximately equal (or level) each year for the life of the bonds.



**Table 3: Estimated Debt Service Schedule (subject to change)**

FYE June 30	2014A (AMT)		2014B (Taxable)		Total 2014AB	
	Principal	Interest	Principal	Interest	Debt Service	
2015	\$ 205,000	\$ 1,238,992	\$ 200,000	\$ 61,769	\$ 1,705,761	
2016	165,000	1,278,875	200,000	61,668	1,705,543	
2017	175,000	1,270,625	200,000	58,628	1,704,253	
2018	185,000	1,261,875	205,000	54,948	1,706,823	
2019	195,000	1,252,625	210,000	50,725	1,708,350	
2020	205,000	1,242,875	215,000	44,845	1,707,720	
2021	215,000	1,232,625	220,000	37,836	1,705,461	
2022	225,000	1,221,875	230,000	30,004	1,706,879	
2023	235,000	1,210,625	240,000	21,057	1,706,682	
2024	245,000	1,198,875	250,000	11,025	1,704,900	
2025	520,000	1,186,625			1,706,625	
2026	545,000	1,160,625			1,705,625	
2027	575,000	1,130,650			1,705,650	
2028	605,000	1,099,025			1,704,025	
2029	640,000	1,065,750			1,705,750	
2030	680,000	1,027,350			1,707,350	
2031	720,000	986,550			1,706,550	
2032	765,000	943,350			1,708,350	
2033	810,000	897,450			1,707,450	
2034	855,000	848,850			1,703,850	
2035	910,000	797,550			1,707,550	
2036	970,000	738,400			1,708,400	
2037	1,030,000	675,350			1,705,350	
2038	1,100,000	608,400			1,708,400	
2039	1,170,000	536,900			1,706,900	
2040	1,245,000	460,850			1,705,850	
2041	1,325,000	379,925			1,704,925	
2042	1,415,000	293,800			1,708,800	
2043	1,505,000	201,825			1,706,825	
2044	1,600,000	104,000			1,704,000	
<b>Total</b>	<b>\$ 21,035,000</b>	<b>\$ 27,553,092</b>	<b>\$ 2,170,000</b>	<b>\$ 432,505</b>	<b>\$ 51,190,597</b>	

3. Description of Documents for Port Commission Approval

Port staff request that the Port Commission approve the following documents in substantially final form as required for the issuance of the 2014 Port Revenue Bonds:

- i. Attached Port Commission Resolution
- ii. Second Supplement to the Indenture to Trust





### iii. Bond Purchase Contract

All of the foregoing documents are described in more detail below.

Additionally, Port staff expect to return to the Port Commission on January 14, 2014 to submit the Preliminary Official Statement and Continuing Disclosure Certificate for review and approval. The attached financing documents are in substantially final form, however minor modifications will continue to be made until the bond closing date. The Port staff has been working with Bond Counsel, Disclosure Counsel, Financial Advisors, and the City Attorney's Office to structure the 2014 Port Revenue Bonds and develop the necessary documents.

- A. Second Supplement to Indenture of Trust - This document is a short supplement to the Existing Indenture, which provides for the specific terms of the 2014 Port Revenue Bonds. Those terms include the bonds' maturity and payment schedules.
- B. Bond Purchase Agreement - This document contains the terms and conditions for the sale of the 2014 Revenue Bonds to the underwriters in a negotiated sale including the fees paid.

#### 4. 2014 Port Revenue Bonds Parameters

Port Commission of San Francisco Revenue Bonds, Series 2014:

- Not to Exceed Par Amount \$30 million
- Not to Exceed True Interest Cost 7%
- Not to Exceed Interest Rate (Coupon Rate) 12%
- Final Maturity 03/01/2044 (30 Years)
- Not to Exceed Underwriter's Discount 0.6% of Par Amount

#### 5. Estimated Sources and Uses of Funds (subject to change)

##### A. Sources

• Bond Proceeds	\$23,950,000
Total Sources of Funds	\$23,950,000

##### B. Uses

• Project Fund Deposit	\$21,475,000
• Deposit to Reserve Fund	1,708,800
• Costs of Issuance*	766,200
Total	\$23,950,000

\*Includes fees of rating agencies, financial advisers, legal counsel, underwriter's discount, financial printer, and other miscellaneous expenses relating to the issuance of the 2014 Port Revenue Bonds.

#### 6. Other

- A. Negotiated Sale – Staff will report back to the Port Commission on the negotiated price of the financing and provide a final debt service schedule.



7. Remaining Major Tasks

A. Credit

Port staff will meet with the Rating Agencies (Moody's Investors Services, Standard & Poor's Corporation and Fitch Ratings) in January/February 2014 and present the Port's financial picture. Additional credit tasks include:

- Provide any follow-up information, as requested
- Receive ratings from the three Rating Agencies
- Evaluate rating impact on financing

The Rating Agencies will present the Port's financing to their respective credit committees. Upon issuance of the rating, the Rating Agencies will publish a summary of the ratings. Additionally, each Rating Agency will periodically review the Port's credit status as long as the bonds are outstanding.

B. Preliminary Official Statement (POS) and Continuing Disclosure Certificate

- Complete disclosure document

C. Bond Sale/Pricing

- The underwriters will pre-market the Port's bonds to the investment community.
- Port staff, together with our Financial Advisors, will negotiate interest rates and prices for purchase of the bonds by the Underwriters.

D. Closing

- The financing team will execute the final financing documents.
- The Port will deliver the bonds to the underwriters on the closing date in return for the purchase price ("proceeds"). The proceeds will be deposited into the Port's accounts established for the 2014 Bonds.

8. Financing Schedule (Subject to Change)

December 2013	Port Commission Meeting to approve resolution and bond documents
December 2013	Review underwriter proposals and select underwriters
January 2014	Port Commission Meeting to approve Preliminary Official Statement and Continuing Disclosure Certificate
January/February 2014	Rating Agency Meetings
January 29, 2014 – February 28, 2014	Board of Supervisors Approval Process
February/March 2014	Post Preliminary Official Statement



February/March 2014	Pricing
Mid-March	Closing and Receipt of Proceeds

## SUMMARY

Port staff recommends issuing up to \$30 million in 2014 Port Revenue Bonds and approving the Port Commission Resolution, the Second Supplement to Indenture of Trust, and the Bond Purchase Contract. Port staff will return with a completed Preliminary Official Statement and Continuing Disclosure Certificate with a target date of January 14, 2014.

There could be other unforeseen issues that arise between now and the date of the bond sale. The Executive Director will be monitoring the progress of this transaction and will delay the sale should, in her opinion, any negative consequences outweigh the benefits of issuing the bonds.

Prepared by: Elaine Forbes, Deputy Director  
Finance and Administration

### Attachments:

1. Port Commission Resolution
2. Second Supplement to the Indenture of Trust
3. Bond Purchase Contract



**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 13-53**

- WHEREAS,** The Port faces the challenge of limited resources to address an aging infrastructure with \$1.6 billion in deferred capital costs; and
- WHEREAS,** The Port Commission has put in place a Capital Policy, which requires a minimum annual investment equal to 20% of operating revenue in capital and a debt to make larger investments in key business lines and facilities; and
- WHEREAS,** The proposed 2014 Port Revenue Bonds would provide financing for the Port's mission critical James R. Herman Cruise Terminal and to address deferred capital needs for historic piers that support private leasing activity; and
- WHEREAS,** The Port Commission of the City and County of San Francisco (the "Port Commission" or the "Port," as applicable) desires to finance certain Phase II capital improvements to Pier 27 and certain structural capital improvements to Piers 19, 23, 29, 29½ and 31 (collectively, the "Projects") with proceeds from the issuance, sale and delivery of revenue bonds (the "Bonds"); and
- WHEREAS,** pursuant to the Charter (the "Charter") of the City and County of San Francisco (the "City") and Section 43, Article XII of the San Francisco Administrative Code (the "Port Bond Ordinance"), the Port Commission may issue revenue bonds with the approval of the Board of Supervisors of the City (the "Board"); and
- WHEREAS,** In connection with the issuance, sale and delivery of the Bonds, the Port Commission will enter into a Second Supplement to Indenture of Trust and certain other related documents and will prepare a Preliminary Official Statement and execute a final Official Statement; and
- WHEREAS,** The Port has paid, beginning on a date no earlier than 60 days prior to the adoption of this Resolution, and will pay, on or after the date hereof, certain expenditures (the "Expenditures") in connection the Projects; and
- WHEREAS,** The Port Commission has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be paid on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Port for the Expenditures from the proceeds of one or more issues of tax exempt bonds (the "Tax-Exempt Bonds"); and





WHEREAS, The Bonds will be sold by negotiated sale pursuant to a bond purchase contract; and, now, therefore, be it

RESOLVED, By the San Francisco Port Commission as follows:

Section 1. Recitals. The Port Commission finds and determines that all of the recitals above are true and correct.

Section 2. Conditions Precedent. But for the publication of the Official Statement and Continuing Disclosure Certificate, all conditions, things and acts required by law to exist, to happen and to be performed precedent to and in the execution and delivery of the Bonds exist, have happened and have been performed in due time, form and manner in accordance with applicable law, and the Port is authorized pursuant to the Charter and the Port Bond Ordinance to incur indebtedness in the manner and form provided in this Resolution, subject, however, to approval by the Board of a resolution authorizing the issuance and delivery of the Bonds.

Section 3. Approval of the Bonds. Conditioned on its prior approval of the Preliminary Official Statement and Continuing Disclosure Certificate for the Bonds, the Port Commission hereby approves the issuance, sale and delivery of the Bonds, which shall be executed and delivered in accordance with the Indenture of Trust dated as of February 1, 2010 (the "Master Indenture") between the Port Commission and U.S. Bank National Association, as successor trustee (the "Trustee"), as previously amended and supplemented and as amended and supplemented by the Second Supplement to Indenture of Trust referred to in Section 4 below (collectively, the "Indenture"), as the same is finally executed and delivered. The proceeds of the Bonds will be used to (i) fund the Projects, including repayment of any commercial paper issued by the City for purposes of the Projects; (ii) fund one or more reserve funds or purchase one or more reserve sureties, as appropriate; (iii) fund capitalized interest, if any; and (iv) pay costs of issuance of the Bonds. The Bonds shall be designated as "Port Commission of the City and County of San Francisco Port Revenue Bonds, Series 2014," with such series designation or such other designation as deemed appropriate by the Executive Director of the Port or her designee. The Bonds shall be issued in an aggregate principal amount not to exceed thirty million dollars (\$30,000,000), with an interest rate not to exceed twelve percent (12%) per annum and shall have a final maturity date not later than 30 years following the dates of issuance thereof. The Bonds may be issued in one or more series or sub-series and in whole or in part as tax-exempt or taxable obligations. The Bonds shall be subject to redemption as set forth in the Indenture. To the extent deemed necessary or desirable by the Executive Director, this Port Commission authorizes the procurement of credit enhancement for the Bonds, including, but not limited to, municipal bond insurance or a debt service reserve fund surety bond, and the documents authorized herein may be modified or amended to permit the procurement of credit



enhancement for the Bonds, to the extent deemed necessary or desirable by the Executive Director, upon consultation with the City Attorney.

Section 4. Official Intent to Reimburse. The Port hereby declares its intention to reimburse itself with the proceeds of the Tax-Exempt Bonds for the Expenditures with respect to the Projects made no more than 60 days prior to the date hereof. The Port reasonably expects that on or about the date of issuance of the Tax-Exempt Bonds that it will reimburse the Expenditures with the proceeds thereof. The Expenditures will be (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Tax-Exempt Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Port so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Port.

Section 5. Approval of the Second Supplement to Indenture. The form of the Second Supplement to Indenture of Trust, between the Port and the Trustee, as presented to this Port Commission, copies of which are on file with the Secretary of the Port Commission, is hereby approved. The Executive Director of the Port is hereby authorized to execute the Indenture, with such changes, additions and modifications as the Executive Director may make or approve in accordance with Section 9 hereof.

Section 6. Sale of Bonds by Negotiated Sale; Selection of Underwriters. The Executive Director is hereby authorized to sell the Bonds by negotiated sale pursuant to a purchase contract as described in Section 7 below, if the Director determines that such manner of sale is in the best interest of the Port, such determination to be conclusively evidenced by the execution and delivery of such purchase contract for the Port. In order to facilitate the sale of the Bonds by negotiated sale, the Executive Director is hereby authorized and directed to select one or more investment banking firms from the City Controller's "as needed" pool and to contract with the firm or firms to act as underwriter(s) for the Bonds in accordance with Port policies and procedures.

Section 7. Approval of Bond Purchase Contract relating to the Bonds. The form of a bond purchase contract between the Port and the underwriting firm or firms appointed by the Executive Director, relating to the Bonds (the "Bond Purchase Contract"), as presented to this Port Commission, a copy of which is on file with the Secretary of the Port Commission, is hereby approved. The Executive Director is hereby authorized to execute the Bond Purchase Contract, with such changes, additions and modifications as the Executive Director may approve in accordance with Section 9 hereof; provided that the underwriters' discount with respect to the Bonds shall not exceed sixth-tenths of one percent (0.6%) of the



principal amount of the Bonds and the true interest cost with respect to the Bonds shall not exceed seven percent (7%) per annum, such approval to be conclusively evidenced by the execution and delivery of the Bond Purchase Contract by the Executive Director.

Section 8. General Authority. The Executive Director, the Secretary of the Port Commission and other officers of the Port, the City Attorney and their duly authorized deputies and agents are hereby authorized and directed, jointly and severally, to take such actions and to execute and deliver such certificates, agreements, requests or other documents as they may deem necessary or desirable to implement the proposed financing through the execution and delivery of the Bonds, to enter into the Indenture and the Bond Purchase Contract, to facilitate the issuance, sale and delivery of the Bonds and to obtain bond insurance or other credit enhancements with respect to the financing of the Projects and otherwise to carry out the provisions of this Resolution.

Section 9. Modifications, Changes and Additions. The Executive Director is hereby authorized to approve and make such modifications, changes or additions to the Indenture and the Bond Purchase Contract (collectively the "Financing Documents") upon consultation with the City Attorney, as may be necessary or desirable in the interests of the City, and which changes do not materially increase the obligations of the Port Commission under the Financing Documents. The Executive Director's approval of such modifications, changes or additions shall be conclusively evidenced by the execution and delivery by the Executive Director of the Financing Documents.

Section 10. Ratification of Prior Actions. All actions authorized and directed by this Resolution and heretofore taken are hereby ratified, approved and confirmed by this Port Commission.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 12, 2013.***

---

Secretary



**ATTACHMENT 2**  
**SECOND SUPPLEMENT TO**  
**INDENTURE OF TRUST**

by and between the

**PORT COMMISSION OF THE**  
**CITY AND COUNTY OF SAN FRANCISCO**

and

**U.S. BANK NATIONAL ASSOCIATION,**  
as trustee

Dated as of March 1, 2014

**PORT COMMISSION OF THE**  
**CITY AND COUNTY OF SAN FRANCISCO**  
**REVENUE BONDS,**  
**SERIES 2014A (AMT Tax-Exempt)**

and

**PORT COMMISSION OF THE**  
**CITY AND COUNTY OF SAN FRANCISCO**  
**REVENUE BONDS,**  
**SERIES 2014B (Taxable)**





## TABLE OF CONTENTS

Page

### ARTICLE I

#### DEFINITIONS

Section 1.01. Definitions.....	2
--------------------------------	---

### ARTICLE II

#### TERMS OF SERIES 2014 BONDS

Section 2.01. Authorization and Purpose of Series 2014 Bonds.....	5
Section 2.02. Terms of the Series 2014 Bonds.....	5
Section 2.03. Forms of Series 2014 Bonds .....	9
Section 2.04. Application of Proceeds of Sale of the Series 2014A Bonds; Establishment of Series 2014A Project Costs Fund and Series 2014A Delivery Costs Fund. ....	9
Section 2.05. Application of Proceeds of Sale of the Series 2014B Bonds; Establishment of Series 2014B Project Costs Fund and Series 2014B Delivery Costs Fund. ....	10
Section 2.06. Book-Entry Provisions.....	11

### ARTICLE III

#### SERIES 2014 INTEREST AND PRINCIPAL ACCOUNTS; RESERVE FUND; SERIES 2014 REBATE FUND; EARNINGS ON DEBT SERVICE FUND AND RESERVE FUND

Section 3.01. Series 2014 Interest and Principal Accounts.....	13
Section 3.02. Reserve Fund.....	14
Section 3.03. Rebate Fund.....	15

### ARTICLE IV

#### MISCELLANEOUS

Section 4.01. Continuing Disclosure.....	17
Section 4.02. Effective Date of First Supplemental Indenture .....	17
Section 4.03. Indenture to Remain in Effect.....	20
Section 4.04. Execution in Counterparts.....	20

FORM OF SERIES 2014 BOND .....	EXHIBIT A
--------------------------------	-----------



## SECOND SUPPLEMENT TO INDENTURE OF TRUST

This SECOND SUPPLEMENT TO INDENTURE OF TRUST, dated as of March 1, 2014 (the **"Second Supplemental Indenture"**), by and between the PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the **"Commission"**), duly constituted and established under Sections 4.100 et seq. of the Charter of the City and County of San Francisco and U.S. BANK NATIONAL ASSOCIATION, a national trust company duly organized under the laws of the United States of America, as successor trustee to Deutsche Bank National Trust Company (the **"Trustee"**);

### WITNESSETH:

**WHEREAS**, the Commission has entered into an agreement dated as of January 24, 1969 (the **"State Agreement"**) pursuant to which the State of California (the **"State"**) has transferred ownership of the Port of San Francisco to the City and County of San Francisco (the **"City"**); and

**WHEREAS**, under Section 4.114 of the Charter of the City and County of San Francisco (the **"Charter"**), the Commission has under its management, supervision, operation and control all real and personal property transferred under State of California Statutes 1968, Chapter 1333, and of all other properties wherever situated as it may acquire or which may be placed under its management, supervision or control (the **"Port Area"**); and

**WHEREAS**, under Section 9.107 of the Charter and Ordinance No. 258-09, adopted by the Board of Supervisors of the City on December 8, 2009 and signed by Mayor Gavin Newsom on December 18, 2009, and codified as Chapter 43, Article XII of the San Francisco Administrative Code, the Commission has the authority to issue port revenue bonds for the purpose of acquiring, constructing, improving or developing ports or port facilities under its jurisdiction and port revenue bonds under such terms and conditions as the Commission may authorize by resolution; and

**WHEREAS**, the Commission has authorized and issued the Series 2014 Bonds pursuant to Resolution No. \_\_\_\_\_ of the Commission, adopted on December 12, 2013 (the **"Port Commission Resolution"**) and the Board of Supervisors of the City has approved the Series 2014 Bonds pursuant to Resolution No. \_\_\_\_\_, adopted on February 11, 2014 and signed by Mayor Edwin M. Lee on \_\_\_\_\_, 2014 (the **"City Resolution"**); and

**WHEREAS**, the Commission previously entered into an Indenture of Trust, dated as of February 1, 2010 (the **"Master Indenture"**), by and between the Commission and the Trustee, which provides for the security and issuance of one or more series of port revenue bonds (the **"Bonds"**); and

**WHEREAS**, the Commission previously entered into a First Supplement to Indenture of Trust, dated as of February 1, 2010, by and between the Commission and the Trustee (the **"First Supplemental Indenture"**; together with the Master Indenture, the **"Existing Indenture"**) in order to provide for issuance of two series of Bonds designated as "Revenue Bonds, Series 2010A (Non-AMT Tax-Exempt)" (the **"Series 2010A Bonds"**) and "Revenue Bonds, Series 2010B (Taxable)" (the **"Series 2010B Bonds"**); together with the Series 2010A Bonds, the **"Series 2010 Bonds"**); and



WHEREAS, the Commission wishes to enter into this Second Supplemental Indenture in order to provide for the terms of two series of Bonds to be designated as "Revenue Bonds, Series 2014A (AMT Tax-Exempt)" (the "**Series 2014A Bonds**") and "Revenue Bonds, Series 2014B (Taxable)" (the "**Series 2014B Bonds**"; together with the Series 2014A Bonds, the "**Series 2014 Bonds**"), which will be issued under and in accordance with the Charter and the Act (as defined in the Existing Indenture) and pursuant to the terms and conditions set forth in the Master Indenture and herein, and for the purpose of financing the Series 2014 Projects.

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL INDENTURE WITNESSETH that in order to secure the payment of the Principal Amount of, premium, if any, and the interest on the Series 2014 Bonds delivered under the Master Indenture and hereunder and to secure the performance of the terms, conditions, covenants, agreements, trusts, uses and purposes hereinafter expressed, and in consideration of the premises and covenants herein contained and of the purchase and acceptance of the Series 2014 Bonds by the Owners thereof, and for other valuable consideration, the receipt of which is hereby acknowledged, the Commission does hereby agree and covenant with the Trustee for the benefit of the respective Owners, from time to time, of the Series 2014 Bonds, as follows:

## ARTICLE I

### DEFINITIONS

Section 1.01. Definitions. The capitalized terms used in this Second Supplemental Indenture shall have the meanings assigned to such terms in the Existing Indenture, unless otherwise defined below or elsewhere in this Second Supplemental Indenture or unless a different meaning clearly applies from the context in which such term is used herein:

"Depository" shall mean (a) initially, DTC, and (b) any other securities depository acting as Depository pursuant to Section 2.06 hereof.

"Depository System Participant" shall mean any participant in the Depository's book-entry system.

"DTC" shall mean The Depository Trust Company, New York, New York, and its successors and assigns.

"Existing Indenture" means the Master Indenture, as amended and supplemented by the First Supplemental Indenture.

"First Supplemental Indenture" shall mean the First Supplement to Indenture of Trust, dated as of February 1, 2010, by and between the Commission and the Trustee.

"Master Indenture" shall mean the Indenture of Trust, dated as of February 1, 2010, by and between the Commission and the Trustee.

"Nominee" shall mean "CEDE & CO." or any successor nominee designated by the Depository pursuant to the terms of the Indenture.

"Qualified Facility" means a dock or wharf and property that is functionally related and subordinate to a dock or wharf, including storage or training facilities directly related to the dock or wharf and physically located on or adjacent to the dock or wharf as described in Treasury Regulation section 1.103-8(3).



**"Qualified Project Costs"** means costs paid with respect to the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds that meet each of the following requirements: (i) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Commission or but for a proper election by the Commission to deduct such costs) in accordance with general federal income tax principles and in accordance with United States Treasury Regulations §1.103-8(a)(1), provided, however, that only such portion of interest accrued during rehabilitation or construction of the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds shall be eligible to be a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds; and provided further that interest accruing after the date of completion of the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds shall not be a Qualified Project Cost. Qualified Project Costs shall include only (A) the actual out-of-pocket costs incurred by the Commission in constructing or rehabilitating the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds (or any portion thereof), (B) any reasonable fees for supervisory services actually rendered by the Commission; (ii) the costs are paid with respect to a qualified facility or facilities within the meaning of Section 142(c) of the Code, (iii) the costs are paid after the earlier of 60 days prior to the date of a declaration of "official intent" to reimburse costs paid with respect to the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds (within the meaning of §1.150-2 of the United States Treasury Regulations) or the date of issue of the Series 2014A Bonds, and (iv) if the costs relating to the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds were previously paid and are to be reimbursed with proceeds of the Series 2014A Bonds such costs were (A) costs of issuance of the Series 2014A Bonds, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations §1.150-2(f)(2)) with respect to the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or construction of the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds that do not exceed twenty percent (20%) of the issue price of the Series 2014A Bonds (as defined in United States Treasury Regulations §1.148-1), or (C) were capital expenditures with respect to the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds is placed in service (but no later than three (3) years after the expenditure is paid).

**"Qualified Reimbursable Costs"** means (i) expenditures paid for costs of issuance of the Series 2014A Bonds, (ii) preliminary capital expenditures (within the meaning of Treasury Regulation section 1.150-2(f)(2)) with respect to the Series 2014 Project, such as architectural, engineering and soil testing services) incurred before commencement of acquisition or construction of the Series 2014 Project that do not exceed 20% of the issue price of the Series 2014A Bonds, and (iii) capital expenditures that (A) were paid no earlier than 60 days before the date of the adoption (being \_\_\_\_\_, 20\_\_) by the Commission of a declaration of intent to reimburse such expenditures from the proceeds of obligations, and (B) are reimbursed no later than 18 months after the later of the date the expenditure was paid or the date the Series 2014 Project is placed in service (but no later than 3 years after the expenditure is paid).

**"Second Supplemental Indenture"** shall mean this Second Supplement to Indenture of Trust, dated as of March 1, 2014, by and between the Commission and the Trustee.





"Series 2014 Bonds" shall mean, collectively, the Series 2014A Bonds and the Series 2014B Bonds.

"Series 2014 Continuing Disclosure Certificate" means the Continuing Disclosure Certificate executed by the Commission, dated the closing date of the Series 2014 Bonds, as originally executed and as each may be amended from time to time.

"Series 2014 Interest Payment Date" shall mean March 1 and September 1 of each year, commencing September 1, 2014.

"Series 2014 Payment Date" means each Series 2014 Interest Payment Date and Series 2014 Principal Payment Date.

"Series 2014 Principal Payment Date" shall mean March 1 of each year, commencing March 1, \_\_\_\_.

"Series 2014 Projects" shall mean the design, construction, reconstruction, repair and/or improvement of various facilities of the Port of San Francisco.

"Series 2014 Record Date" shall mean the close of business on the fifteenth day of the month preceding each Series 2014 Interest Payment Date, whether or not such fifteenth day is a Business Day.

"Series 2014A Bonds" shall mean the \$\_\_\_\_\_ aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds, Series 2014A (AMT Tax-Exempt).

"Series 2014A Delivery Costs Fund" shall mean the fund by that name established pursuant to Section 2.04(c) hereof.

"Series 2014A Project Costs Fund" shall mean that certain fund established pursuant to section 2.04(b) hereof.

"Series 2014A Reimbursement Fund" shall mean the fund by that name established pursuant to Section 2.04(d) hereof.

"Series 2014A Reserve Account" shall mean the Series 2014A Reserve Account in the Reserve Fund established pursuant to Section 3.02 hereof.

"Series 2014A Reserve Requirement" shall mean, as of any date of calculation, the least of (i) an amount equal to Maximum Annual Debt Service with respect to the Series 2014A Bonds, (ii) 125% of average annual debt service on the Series 2014A Bonds and (iii) 10% of the initial Principal Amount of Series 2014A Bonds. To the extent a future Series of Bonds is designated in a Supplemental Indenture to benefit from the Series 2014A Reserve Account, the foregoing definition shall be revised in such Supplemental Indenture to take into account such Series of Bonds and the requirements of the Code.

"Series 2014B Bonds" shall mean the \$\_\_\_\_\_ aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds, Series 2014B (Taxable).

"Series 2014B Delivery Costs Fund" shall mean the fund by that name established pursuant to Section 2.05(c) hereof.



"Series 2014B Project Costs Fund" shall mean that certain fund established pursuant to section 2.05(b) hereof.

"Series 2014B Reimbursement Fund" shall mean the fund by that name established pursuant to Section 2.05(d) hereof.

"Series 2014B Reserve Account" shall mean the Series 2014B Reserve Account in the Reserve Fund established pursuant to Section 3.02 hereof.

"Series 2014B Reserve Requirement" shall mean, as of any date of calculation, Maximum Annual Debt Service on the Series 2014B Bonds. To the extent a future Series of Bonds is designated in a Supplemental Indenture to benefit from the Series 2014B Reserve Account, the foregoing definition shall be revised in such Supplemental Indenture to take into account such Series of Bonds and the requirements of the Code.

"Series 2010 Bonds" shall mean collectively the Series 2010A Bonds and the Series 2010B Bonds.

"Series 2010A Bonds" shall mean the \$14,220,000 aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds, Series 2010A (Non-AMT Tax-Exempt).

"Series 2010B Bonds" shall mean the \$22,430,000 aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds, Series 2010B (Taxable).

"Tax-Exempt Commercial Paper Notes" means the City and County of San Francisco Tax-Exempt Lease Revenue Commercial Paper Certificates of Participation, Series \_\_\_\_.

"Tax-Exempt Commercial Paper Trust Agreement" means the Trust Agreement, dated as of June 1, 2010, between the City and County of San Francisco and U.S. Bank National Association.

## ARTICLE II

### TERMS OF SERIES 2014 BONDS

Section 2.01. Authorization and Purpose of Series 2014 Bonds. The Commission hereby authorizes the issuance of the Series 2014 Bonds for the purpose of providing moneys to finance the Series 2014 Projects. The parties hereto hereby acknowledge and agree that the Series 2014 Bonds constitute "Bonds" as defined in the Master Indenture, that the Commission has delivered to the Trustee those items described in Section 2.09(a) and (b) of the Master Indenture and that the Series 2014 Bonds are secured on a parity with the Series 2010 Bonds and any additional Series of Bonds which may hereafter be issued under the Indenture.

Section 2.02. Terms of the Series 2014 Bonds. (a) General. The Series 2014 Bonds authorized to be issued by the Commission under and subject to the terms of the Indenture and the Charter and the Act shall be issued in two Series in the aggregate principal amount of \$\_\_\_\_\_:



Series 2014A Bonds: "Port Commission of the City and County of San Francisco Revenue Bonds, Series 2014A (AMT Tax Exempt)," which shall be issued in the aggregate principal amount of \$\_\_\_\_\_.

Series 2014B Bonds: "Port Commission of the City and County of San Francisco Revenue Bonds, Series 2014B (Taxable)," which shall be issued in the aggregate principal amount of \$\_\_\_\_\_.

As further provided herein, the Series 2014A Bonds shall be issued as qualified private activity bonds and the Series 2014B Bonds shall be issued as taxable obligations.

The Series 2014 Bonds shall be dated their date of issuance, shall bear interest at the rates set forth herein (calculated on the basis of a 360-day year comprised of 12 30-day months), shall be issued as fully registered bonds in authorized denominations of \$5,000 or any integral multiple thereof, shall be numbered in such manner as the Trustee may deem appropriate so long as each Series 2014 Bond receives a distinctive number and shall mature, subject to the right of prior redemption in whole or in part, as described herein, and become payable in the amounts and on the dates as provided herein.

(b) Maturity Schedule of Series 2014A Bonds. The Series 2014A Bonds shall bear interest at the rates per annum, payable on each Series 2014 Interest Payment Date, and be payable as to principal on each Series 2014 Principal Payment Date in each of the years and in the amounts indicated as follows:

<u>Series 2014A Bonds</u>		
<u>Year</u>	<u>Principal</u>	<u>Interest Rate</u>
<u>(March 1)</u>		

(c) Maturity Schedule of Series 2014B Bonds. The Series 2014B Bonds shall bear interest at the rates per annum, payable on each Series 2014 Interest Payment Date, and be payable as to principal on each Series 2014 Principal Payment Date in each of the years and in the amounts indicated as follows:

<u>Series 2014B Bonds</u>		
<u>Year</u>	<u>Principal</u>	<u>Interest Rate</u>
<u>(March 1)</u>		



(d) Payment of Series 2014 Bonds. The Series 2014 Bonds shall bear interest from the Series 2014 Interest Payment Date immediately preceding the date of authentication thereof unless (i) the date of authentication thereof is prior to the first regular Series 2014 Record Date in which event from the dated date of such Series 2014 Bond, or (ii) the date of authentication thereof is a Series 2014 Interest Payment Date, in which event from that Series 2014 Interest Payment Date, or (iii) the date of authentication thereof is after a regular Series 2014 Record Date but before the following Series 2014 Interest Payment Date, in which event it shall bear interest from such Series 2014 Interest Payment Date.

Payment of interest on the Series 2014 Bonds shall be paid by check or draft mailed by the Trustee on the Series 2014 Interest Payment Date via first class mail to the Holders at their addresses shown on the registration books of the Trustee as of the close of business on the Series 2014 Record Date with respect to such Series 2014 Interest Payment Date; provided that payment of interest may be paid by federal wire transfer to an account in the United States designated by any Holder of Series 2014 Bonds in the aggregate principal amount of \$1,000,000 or more, upon provision of a written notice received by the Trustee prior to the applicable Series 2014 Record Date. Any such written notice shall remain in effect until terminated or changed by subsequent written notice of the Holder.

Interest shall be paid notwithstanding the cancellation of any Series 2014 Bonds upon any exchange or registration of transfer thereof subsequent to the Series 2014 Record Date and prior to such Series 2014 Interest Payment Date.

The Principal Amount of and redemption premiums, if any, on the Series 2014 Bonds and payments of interest due at maturity or earlier redemption of the Series 2014 Bonds, shall be payable upon the surrender thereof at the Corporate Trust Office of the Trustee. The Principal Amount of and redemption premiums, if any, and interest on the Series 2014 Bonds shall be paid in lawful money of the United States of America.

(e) Limitations on Transfer and Exchange of Series 2014 Bonds. The Commission and the Trustee shall not be required to issue, register the transfer of, or exchange (i) any Series 2014 Bond during the period beginning on the fifteenth day of the month preceding each Series 2014 Interest Payment Date and ending on such Series 2014 Interest Payment Date, during the fifteen (15) days preceding the selection of Series 2014 Bonds for redemption, on any date on which notice of redemption is scheduled to be mailed, on any redemption date, or (ii) any Series 2014 Bond selected for redemption.

(f) Redemption of the Series 2014 Bonds. The Series 2014 Bonds scheduled to mature on or before March 1, \_\_\_\_\_ are not subject to optional redemption prior to maturity. The Series 2014 Bonds maturing on or after March 1, \_\_\_\_\_ shall be subject to redemption as a whole or in part among such maturities as designated by the Commission (and by lot within any one maturity) prior to their respective maturity dates, at the option of the Commission, on any date on or after March 1, \_\_\_\_\_, from funds derived by the Commission from any legally available source, at redemption prices (expressed as a percentage of the principal amount of the Series 2014 Bonds called for redemption) together with interest accrued thereon to the date of redemption.

(g) Mandatory Sinking Fund Payments for Series 2014 Bonds. (i) The Series 2014A Bonds (the "**Series 2014A Term Bonds**") shall also be subject to mandatory redemption in part by lot prior to their maturity date, on March 1, commencing March 1, \_\_\_\_\_ solely from money which has been deposited into the Series 2014 Principal Account in amounts and upon the dates hereby established for such Series 2014A Term Bonds, as follows:





Series 2014A Term Bonds Maturing on March 1, \_\_\_\_\_

Year  
(March 1)

Mandatory  
Sinking Fund Payments

\_\_\_\_\_  
\*Maturity

(ii) The Series 2014B Bonds maturing on March 1, \_\_\_\_\_ (the "**Series 2014B \_\_\_\_\_ Term Bonds**") shall also be subject to mandatory redemption in part by lot prior to their maturity date, on March 1, commencing March 1, \_\_\_\_\_ solely from money which has been deposited into the Series 2014 Principal Account in amounts and upon the dates hereby established for such Series 2014B \_\_\_\_\_ Term Bonds, as follows:

Series 2014B Term Bonds Maturing on March 1, \_\_\_\_\_

Year  
(March 1)

Mandatory  
Sinking Fund Payments

\_\_\_\_\_  
\*Maturity

(iii) The Series 2014B Bonds maturing on March 1, \_\_\_\_\_ (the "**Series 2014B \_\_\_\_\_ Term Bonds**") shall also be subject to mandatory redemption in part by lot prior to their maturity date, on March 1, commencing March 1, \_\_\_\_\_ solely from money which has been deposited into the Series 2014 Principal Account in amounts and upon the dates hereby established for such Series 2014B \_\_\_\_\_ Term Bonds, as follows:

Series 2014B Term Bonds Maturing on March 1, \_\_\_\_\_

Year  
(March 1)

Mandatory  
Sinking Fund Payments

\_\_\_\_\_  
\*Maturity



(h) Partial Redemption of the Series 2014B Bonds. Notwithstanding Section 3.04 of the Master Indenture, if less than all of the Series 2014B Bonds of a maturity are to be redeemed, the Trustee will effect a pro rata reduction of principal of all outstanding Series 2014B Bonds of such maturity. In the event of any such pro rata reduction of principal, the Trustee will send DTC written notice of the dollar amount per \$5,000 principal amount payable on account of principal, premium, if any, and accrued interest not less than two Business Days prior to the payment date. DTC will be responsible for distributing the principal, premium, if any, and accrued interest among the DTC participants, pro rata (subject to minimum authorized denomination restrictions) according to the beneficial interest in the Series 2014B Bonds of such maturity that DTC records list as owned by each DTC participant as of the record date for such payment. In the event the Series 2014B Bonds are designated for optional redemption, the Commission may designate the sinking fund payments, or portions thereof, that are to be reduced as allocated to such redemption.

Section 2.03. Forms of Series 2014 Bonds. The Series 2014 Bonds and the forms of authentication and registration endorsement and the assignment to appear thereon shall be substantially in the forms attached hereto as Exhibit A, with necessary or appropriate variations, omission and insertions as permitted or required by the Indenture.

Section 2.04. Application of Proceeds of Sale of the Series 2014A Bonds; Establishment of Series 2014A Project Costs Fund and Series 2014A Delivery Costs Fund.

(a) Application of Proceeds. Upon receipt of payment of the purchase price for the Series 2014A Bonds in the amount of \$\_\_\_\_\_ (representing \$\_\_\_\_\_ principal amount, less an original issue discount in the amount of \$\_\_\_\_\_ and less an Underwriter's discount in the amount of \$\_\_\_\_\_) from the original purchaser thereof, the Trustee shall set aside and deposit such amount as follows:

(1) The Trustee shall transfer to the Commission for deposit in the Series 2014A Project Costs Fund established pursuant to Section 2.04(b) hereof the sum equal to \$\_\_\_\_\_;

(2) The Trustee shall transfer to the Commission for deposit in the Series 2014A Reimbursement Fund established pursuant to Section 2.04(d) hereof the sum equal to \$\_\_\_\_\_;

(3) The Trustee shall deposit in the Series 2014A Reserve Account the sum equal to \$\_\_\_\_\_, which is equal to the initial Series 2014A Reserve Requirement with respect to the Series 2014A Bonds; and

(4) The Trustee shall deposit in the Series 2014A Delivery Costs Fund established pursuant to Section 2.04(c) hereof such moneys to be used to pay Delivery Costs with respect to the Series 2014A Bonds as directed by a certificate of an Authorized Commission Representative.

(b) Series 2014A Project Costs Fund. The Commission shall establish a Series 2014A Project Costs Fund for the deposit and retention of a portion of the Series 2014A Bond proceeds held pending disbursement thereof.

The Commission shall disburse amounts in the Series 2014A Project Costs Fund for costs of the Series 2014 Projects. Amounts on deposit in the Series 2014A Project Costs Fund may be used for Delivery Costs and upon completion of the Series 2014A Project any remaining



amounts may be transferred for such purposes as comply with applicable law and the Tax Certificate for the Series 2014A Bonds. Earnings on the Series 2014A Project Costs Fund may be transferred by the Commission to the Series 2014 Interest Account and used to pay interest on the Series 2014A Bonds.

(c) Series 2014A Delivery Costs Fund. The Trustee shall establish a Series 2014A Delivery Costs Fund for the deposit and retention of a portion of the Series 2014A Bond proceeds held pending disbursement thereof. The Trustee shall disburse amounts in the Series 2014A Delivery Costs Fund upon receipt from an Authorized Commission Representative of a requisition setting out the payee, the amount of such disbursement and the purpose of such disbursement, including a statement that said disbursement was incurred for Delivery Costs. Upon the earlier of 180 days after initial delivery of the Series 2014A Bonds or receipt by the Trustee of a certificate of an Authorized Commission Representative that all Delivery Costs with respect to Series 2014A Bonds have been paid, the Trustee shall transfer remaining amounts in the Series 2014A Delivery Costs Fund to the Series 2014 Interest Account to pay interest on the Series 2014A Bonds.

The Trustee shall have no duty or liability to monitor the application of any moneys disbursed hereunder. The Trustee shall be absolutely protected in making any disbursement from the Series 2014A Delivery Costs Fund in reliance upon a requisition of an Authorized Commission Representative. Each such requisition shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts.

(d) The Series 2014A Reimbursement Fund. The Trustee shall establish and maintain a Series 2014A Reimbursement Fund and shall close the Fund when there are no moneys left in the Fund. The moneys in the Series 2014A Reimbursement Fund shall be held by the Trustee in trust and transferred, on the closing date of the Series 2014A Bonds, to U.S. Bank National Association, as issuing and paying agent of the Tax-Exempt Commercial Paper Notes, for deposit in the [Series \_\_\_\_ Subaccount of the Bank Reimbursement Account] established pursuant to Section 3.05 of the Tax-Exempt Commercial Paper Trust Agreement in order to pay off \$\_\_\_\_\_ of Tax-Exempt Commercial Paper Notes on [specify date less than 90 days from closing date of Series 2014A Bonds] (plus interest). The payment instructions to U.S. Bank National Association are as follows: **[to come]**

Section 2.05. Application of Proceeds of Sale of the Series 2014B Bonds; Establishment of Series 2014B Project Costs Fund and Series 2014B Delivery Costs Fund.

(a) Application of Proceeds. Upon receipt of payment of the purchase price for the Series 2014B Bonds in the amount of \$\_\_\_\_\_ (representing \$\_\_\_\_\_ principal amount, less an Underwriter's discount in the amount of \$\_\_\_\_\_) from the original purchaser thereof, the Trustee shall set aside and deposit such amount as follows:

(1) The Trustee shall transfer to the Commission for deposit in the Series 2014B Project Costs Fund established pursuant to Section 2.05(b) hereof the sum equal to \$\_\_\_\_\_;

(2) The Trustee shall transfer to the Commission for deposit in the Series 2014B Reimbursement Fund established pursuant to Section 2.04(d) hereof the sum equal to \$\_\_\_\_\_;



(3) The Trustee shall deposit in the Series 2014B Reserve Account the sum equal to \$\_\_\_\_\_, which is equal to the initial Series 2014B Reserve Requirement with respect to the Series 2014B Bonds;

(4) The Trustee shall deposit in the Series 2014B Delivery Costs Fund established pursuant to Section 2.05(c) hereof such moneys to be used to pay Delivery Costs with respect to the Series 2014B Bonds as directed by a certificate of an Authorized Commission Representative.

(b) Series 2014B Project Costs Fund. The Commission shall establish a Series 2014B Project Costs Fund for the deposit and retention of a portion of the Series 2014B Bond proceeds held pending disbursement thereof. The Commission shall disburse amounts in the Series 2014B Project Costs Fund for costs of the Series 2014 Projects. Amounts on deposit in the Series 2014B Project Costs Fund may be used for Delivery Costs and upon completion of the Series 2014B Project any remaining amounts may be transferred for such purposes as permitted by law. Earnings on the Series 2014B Project Costs Fund may be transferred by the Commission to the Series 2014 Interest Account.

(c) Series 2014B Delivery Costs Fund. The Trustee shall establish a Series 2014B Delivery Costs Fund for the deposit and retention of a portion of the Series 2014B Bond proceeds held pending disbursement thereof. The Trustee shall disburse amounts in the Series 2014B Delivery Costs Fund upon receipt from an Authorized Commission Representative of a requisition setting out the payee, the amount of such disbursement and the purpose of such disbursement, including a statement that said disbursement was incurred for Delivery Costs. Upon the earlier of 180 days after initial delivery of the Series 2014B Bonds or receipt by the Trustee of a certificate of an Authorized Commission Representative that all Delivery Costs with respect to Series 2014B Bonds have been paid, the Trustee shall transfer remaining amounts in the Series 2014B Delivery Costs Fund to the Series 2014 Interest Account.

The Trustee shall have no duty or liability to monitor the application of any moneys disbursed hereunder. The Trustee shall be absolutely protected in making any disbursement from the Series 2014B Delivery Costs Fund in reliance upon a requisition of the Commission. Each such requisition shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts.

(d) The Series 2014B Reimbursement Fund. The Trustee shall establish and maintain a Series 2014B Reimbursement Fund and shall close the Fund when there are no moneys left in the Fund. The moneys in the Series 2014B Reimbursement Fund shall be held by the Trustee in trust and transferred, on the closing date of the Series 2014B Bonds, to U.S. Bank National Association, as issuing and paying agent of the Tax-Exempt Commercial Paper Notes, for deposit in the [Series \_\_\_\_ Subaccount of the Bank Reimbursement Account] established pursuant to Section 3.05 of the Tax-Exempt Commercial Paper Trust Agreement in order to pay off \$\_\_\_\_\_ of Tax-Exempt Commercial Paper Notes on [specify date] (plus interest). The payment instructions to U.S. Bank National Association are as follows: **[to come]**

#### Section 2.06. Book-Entry Provisions.

(a) Original Delivery. The Commission may provide prior to the date of delivery of the Series 2014 Bonds, that the Series 2014 Bonds may be initially delivered in book-entry form pursuant to this Section 2.06.





The Series 2014 Bonds initially delivered in book-entry form shall be initially delivered in the form of a separate single fully registered Series 2014 Bond without coupons (which may be typewritten) for each maturity of the Series 2014 Bonds. Upon initial delivery, the ownership of each such Series 2014 Bond shall be registered by the Trustee in the name of the Nominee. Except as provided in subsection (c) below, the ownership of all such Outstanding Series 2014 Bonds shall be registered in the name of the Nominee on the registration books of the Registrar.

With respect to Series 2014 Bonds the ownership of which shall be registered in the name of the Nominee, the Commission and the Trustee shall have no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Commission holds an interest in the Series 2014 Bonds. Without limiting the generality of the immediately preceding sentence, the Commission and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Series 2014 Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Series 2014 Bondholder as shown in the Registration Books, of any notice with respect to the Series 2014 Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Series 2014 Bonds to be redeemed in the event the Commission elects to redeem the Series 2014 Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Series 2014 Bondholder as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest on the Series 2014 Bonds or (v) any consent given or other action taken by the Depository as Holder of the Series 2014 Bonds. The Commission and the Trustee may treat and consider the person in whose name each Series 2014 Bond is registered as the absolute owner of such Series 2014 Bond for the purpose of payment of principal, premium and interest on such Series 2014 Bond, for the purpose of giving notices of prepayment and other matters with respect to such Series 2014 Bond, for the purpose of registering transfers of ownership of such Series 2014 Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and interest and premium, if any, on the Series 2014 Bonds only to the respective Holders or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Series 2014 Bonds to the extent of the sum or sums so paid. No person other than a Series 2014 Bondholder shall receive a Series 2014 Bond evidencing the obligation of the Commission to make payments of principal, interest and premium, if any, pursuant to this Indenture. Upon delivery by the Depository to the Nominee of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the Commission shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Series 2014 Bonds for the Depository's book-entry system, the Commission and the Trustee shall execute and deliver to such Depository a letter representing such matters as shall be necessary to so qualify the Series 2014 Bonds. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the Commission or the Trustee any obligation whatsoever with respect to persons having interests in the Series 2014 Bonds other than the Series 2014 Bondholders. The Trustee agrees to comply with all provisions in such letter with respect to the giving of notices thereunder by the Trustee. In addition to the execution and delivery of such letter, the Commission may take any other actions, not inconsistent with this Indenture, to qualify the Series 2014 Bonds for the Depository's book-entry program.



(c) Transfers Outside Book-Entry System. In the event that either (i) the Depository determines not to continue to act as Depository for the Series 2014 Bonds, or (ii) the Commission determines to terminate the Depository as such, then the Commission shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the Commission and the Trustee in the issuance of replacement Series 2014 Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Series 2014 Bonds, and by surrendering the Series 2014 Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Series 2014 Bonds are to be issued. The Depository, by accepting delivery of the Series 2014 Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the Commission fails to identify another Securities Depository to replace the Depository, then the Series 2014 Bonds shall no longer be required to be registered in the name of the Nominee, but shall be registered in whatever name or names the Holders transferring or exchanging Series 2014 Bonds shall designate, in accordance with the provisions of Article II of the Master Indenture. Prior to its termination, the Depository shall furnish the Trustee with the names and addresses of the Depository System Participants and respective ownership interests thereof.

(d) Payments to the Nominee. Notwithstanding any other provision of the Indenture to the contrary, so long as any Series 2014 Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium, if any, on such Series 2014 Bond and all notices with respect to such Series 2014 Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section 2.06 or as otherwise instructed by the Depository.

## ARTICLE III

### **SERIES 2014 INTEREST AND PRINCIPAL ACCOUNTS; RESERVE FUND; SERIES 2014 REBATE FUND; EARNINGS ON DEBT SERVICE FUND AND RESERVE FUND**

Section 3.01. Series 2014 Interest and Principal Accounts. Moneys accumulated in the Enterprise Fund shall be transferred by the Commission to the Trustee for deposit in the Debt Service Fund as provided in Section 5.05 of the Master Indenture and this Section 3.01; provided, that the following accounts are created in the Debt Service Fund held by the Trustee with respect to the Series 2014 Bonds; provided further, however, that to the extent that deposits have been made in any of the accounts referred to below from the proceeds of the sale of the Series 2014 Bonds or otherwise, the deposits below need not be made:

(a) Series 2014 Interest Account. On or before the Business Day prior to each Series 2014 Interest Payment Date, the Commission shall transfer from the Enterprise Fund to the Trustee for deposit in the Series 2014 Interest Account within the Debt Service Fund (which account is hereby created), the interest to become due on the Series 2014 Bonds on such Series 2014 Interest Payment Date; provided that the Commission need not transfer any moneys at such time as the balance in said Series 2014 Interest Account shall be equal to the aggregate amount of interest becoming due and payable on the then Outstanding Series 2014 Bonds on the next succeeding Series 2014 Interest Payment Date. The obligation to make the foregoing transfers shall be on a parity with the obligation to fund interest on the Series 2010 Bonds pursuant to the First Supplemental Indenture and any interest accounts henceforth created under the Indenture with respect to any additional Series of Bonds which may hereafter be issued under the Indenture, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference.



(b) Series 2014 Principal Account. On or before the Business Day prior to each Series 2014 Principal Payment Date, the Commission shall transfer from the Enterprise Fund to the Trustee for deposit in the Series 2014 Principal Account within the Debt Service Fund (which account is hereby created), the Principal Amount to become due on the Series 2014 Bonds on such Series 2014 Principal Payment Date; provided that the Commission need not transfer any moneys at such time as the balance in said Series 2014 Principal Account shall be equal to the aggregate Principal Amount becoming due and payable on the then Outstanding Series 2014 Bonds on the next succeeding Series 2014 Principal Payment Date. The obligation to make the foregoing transfers shall be on a parity with the obligation to fund the principal account for the Series 2010 Bonds pursuant to the First Supplemental Indenture and any principal accounts henceforth created under the Indenture with respect to any additional Series of Bonds which may hereafter be issued under the Indenture, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference.

(c) Reserve Fund. Immediately after making the transfers described in paragraphs (a) and (b) above, transfers shall be made by the Commission to the Trustee from the Enterprise Fund to the Series 2014A Reserve Account and the Series 2014B Reserve Account, on or before the first Business Day of each month, commencing \_\_\_\_, 20\_\_ in an amount equal to that sum, if any, necessary to restore the Series 2014A Reserve Account to an amount equal to the Series 2014A Reserve Requirement and the Series 2014B Reserve Account to an amount equal to the Series 2014B Reserve Requirement.

The obligation to make the foregoing transfers to the Series 2014A Reserve Account and the obligation to make the foregoing transfers to the Series 2014B Reserve Account shall be on a parity with each other without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference. The obligation to make the foregoing transfers to the Series 2014A Reserve Account and the Series 2014B Reserve Account shall be on a parity with the obligation to make similar transfers to the Series 2010A Reserve Account and the Series 2010B Reserve Account without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference. If provided for in a Supplemental Indenture, the obligation to make the foregoing transfers and those to the Series 2010A Reserve Account and the Series 2010B Reserve Account shall be on a parity with the obligation to fund any separate reserve accounts within the Reserve Fund henceforth created under the Indenture with respect to any additional Series of Bonds which may hereafter be issued under the Indenture, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference.

Section 3.02. Reserve Fund. (a) The Series 2014A Reserve Account in the Reserve Fund is hereby established with the Trustee. The Reserve Requirement for the Series 2014A Bonds shall be the Series 2014A Reserve Requirement. The Series 2014A Reserve Account shall benefit only the Series 2014A Bonds and any additional Series of Bonds to the extent so designated in a Supplemental Indenture. The amounts on deposit in the Series 2014A Reserve Account shall secure on a parity basis the Series 2014A Bonds and any additional Series of Bonds to the extent so designated in a Supplemental Indenture. If on any Series 2014 Payment Date the amount on deposit in the Debt Service Fund is not sufficient to pay interest on and principal to become due on the Series 2014A Bonds on such Series 2014 Payment Date (or any Series of Bonds designated in a Supplemental Indenture on its Payment Dates), then the Trustee shall withdraw the amount of any such deficiency from the Series 2014A Reserve Account and deposit such amount in the Debt Service Fund. All money on deposit in the Series 2014A Reserve Account in excess of the Series 2014A Reserve Requirement shall be transferred to the Commission or to such account as the Commission may designate; and for



this purpose all investments in the Series 2014A Reserve Account shall be valued monthly, at the lower of purchase price or the current market value of such investments (inclusive of accrued interest).

(b) The Series 2014B Reserve Account in the Reserve Fund is hereby established with the Trustee. The Reserve Requirement for the Series 2014B Bonds shall be the Series 2014B Reserve Requirement. The Series 2014B Reserve Account shall benefit only the Series 2014B Bonds and any additional Series of Bonds to the extent so designated in a Supplemental Indenture. The amounts on deposit in the Series 2014B Reserve Account shall secure on a parity basis the Series 2014B Bonds and any additional Series of Bonds to the extent so designated in a Supplemental Indenture. If on any Series 2014 Payment Date the amount on deposit in the Debt Service Fund is not sufficient to pay interest on and principal to become due on the Series 2014B Bonds on such Series 2014 Payment Date (or any Series of Bonds designated in a Supplemental Indenture on its Payment Dates), then the Trustee shall withdraw the amount of any such deficiency from the Series 2014B Reserve Account and deposit such amount in the Debt Service Fund. All money on deposit in the Series 2014B Reserve Account in excess of the Series 2014B Reserve Requirement shall be transferred to the Commission or to such account as the Commission may designate; and for this purpose all investments in the Series 2014B Reserve Account shall be valued monthly, at the lower of purchase price or the current market value of such investments (inclusive of accrued interest); provided that such amounts released upon redemption or maturity of the Series 2014B Bonds shall first be transferred to the Series 2014A Reserve Account to the extent needed to satisfy the Series 2014A Reserve Requirement.

### Section 3.03. Rebate Fund.

(a) General. The Trustee shall establish a special fund designated the "Series 2014A Bonds Rebate Fund" (the "Rebate Fund"). All amounts at any time on deposit in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the requirement to make rebate payments to the United States (the "**Rebate Requirement**") with respect to the Series 2014A Bonds, pursuant to Section 148 of the Code and the Treasury Regulations promulgated thereunder (the "**Treasury Regulations**"). The Commission may by Supplemental Indenture establish additional funds or accounts for purposes of satisfying the Rebate Requirement with respect to any other Outstanding Bonds. Amounts on deposit in the Rebate Fund shall be free and clear of any lien under the Indenture and shall be governed by this Section 3.03 and Section 6.07 of the Master Indenture and by the Tax Certificate relating to the Series 2014A Bonds. The Trustee shall be deemed conclusively to have complied with the Rebate Requirement if it follows the directions of the Commission, and shall have no independent responsibility to, or liability resulting from its failure to, enforce compliance by the Commission with the Rebate Requirement.

#### (b) Deposits.

(i) Within 45 days of the end of each Bond Year (as such term is defined in the Tax Certificate), (1) the Commission shall calculate or cause to be calculated with respect to the Series 2014A Bonds the amount that would be considered the "rebate amount" within the meaning of Section 1.148-3 of the Treasury Regulations, using as the "computation date" for this purpose the end of such Bond Year, and (2) upon the Commission's written direction, the Trustee shall deposit to the Rebate Fund from deposits from the Commission, if and to the extent required, amounts sufficient to cause the balance in the Rebate Fund to be equal to the "rebate amount" so calculated.





(ii) The Trustee shall not be required to deposit any amount to the Rebate Fund in accordance with the preceding sentence if the amount on deposit in the Rebate Fund prior to the deposit required to be made under this subsection (b) equals or exceeds the "rebate amount" calculated in accordance with the preceding sentence. Such excess may be withdrawn from the Rebate Fund to the extent permitted under subsection (g) of this Section 3.03.

(iii) The Commission shall not be required to calculate the "rebate amount," and the Trustee shall not be required to make deposit of any amount to the Rebate Fund in accordance with this subsection (b), with respect to all or a portion of the proceeds of the Series 2014A Bonds (including amounts treated as proceeds of the Series 2014A Bonds) (1) to the extent such proceeds satisfy the expenditure requirements of Section 148(f)(4)(B) or Section 148(f)(4)(C) of the Code, whichever is applicable, and otherwise qualify for the exception to the Rebate Requirement pursuant to whichever of said sections is applicable, (2) to the extent such proceeds are subject to an election by the Commission under Section 148(f)(4)(C)(vii) of the Code to pay a 1½% penalty in lieu of arbitrage rebate in the event any of the percentage expenditure requirements of Section 148(f)(4)(C) are not satisfied, or (3) to the extent such proceeds qualify for the exception to arbitrage rebate under Section 148(f)(4)(A)(ii) of the Code for amounts in a "bona fide debt service fund." In such event, and with respect to such amounts, the Commission shall provide written direction to the Trustee that the Trustee shall not be required to deposit any amount to the Rebate Fund in accordance with this subsection (b).

(c) Withdrawal Following Payment of Bonds. Any funds remaining in the Rebate Fund after payment of all the Series 2014 Bonds and any amounts described in paragraph (2) of subsection (d) of this Section 3.03, or provision made therefor satisfactory to the Trustee, including accrued interest and payment of any applicable fees to the Trustee, shall be withdrawn by the Trustee and remitted to the Commission.

(d) Withdrawal for Payment of Rebate. Upon the Commission's written direction, but subject to the exceptions contained in subsection (b) of this Section 3.03 to the requirement to calculate the "rebate amount" and make deposits to the Rebate Fund, the Trustee shall pay to the United States, from amounts on deposit in the Rebate Fund,

(1) not later than 60 days after the end of (i) the fifth Bond Year, and (ii) each fifth Bond Year thereafter, an amount that, together with all previous rebate payments, is equal to at least 90% of the "rebate amount" calculated as of the end of such Bond Year in accordance with Section 1.148-3 of the Treasury Regulations; and

(2) not later than 60 days after the payment of all Series 2014A Bonds, an amount equal to 100% of the "rebate amount" calculated as of the date of such payment (and any income attributable to the "rebate amount" determined to be due and payable) in accordance with Section 1.148-3 of the Treasury Regulations.

(e) Rebate Payments. Each payment required to be made pursuant to subsection (d) of this Section 3.03 shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, which shall be completed by the arbitrage rebate consultant for execution by the Commission and provided to the Trustee.



(f) Deficiencies in the Rebate Fund. In the event that, prior to the time any payment is required to be made from the Rebate Fund, the amount in the Rebate Fund is not sufficient to make such payment when such payment is due, the Commission shall calculate the amount of such deficiency and direct the Trustee to deposit an amount received from the Commission equal to such deficiency into the Rebate Fund prior to the time such payment is due.

(g) Withdrawals of Excess Amounts. In the event that immediately following the calculation required by subsection (b) of this Section 3.03, but prior to any deposit made under said subsection, the amount on deposit in the Rebate Fund exceeds the "rebate amount" calculated in accordance with said subsection (b), upon written instructions from the Commission, the Trustee shall withdraw the excess from the Rebate Fund and credit such excess to the Debt Service Fund.

(h) Record Keeping. The Commission shall retain records of all determinations made hereunder until six years after the complete retirement of the Series 2014 Bonds.

(i) Survival of Defeasance. Notwithstanding anything in the Indenture to the contrary, the Rebate Requirement shall survive the payment in full or defeasance of the Series 2014A Bonds.

## ARTICLE IV

### MISCELLANEOUS

Section 4.01. Continuing Disclosure. The Commission hereby covenants and agrees that it will comply with the provisions of the Series 2014 Continuing Disclosure Certificate. Notwithstanding any other provision of the Indenture, failure of the Commission to comply with the Series 2014 Continuing Disclosure Certificate shall not be considered an event of default hereunder; however, the Trustee may (and, at the request of the Participating Underwriter (as defined in the Series 2014 Continuing Disclosure Certificate) or the Owners of at least twenty-five percent (25%) of the aggregate principal amount of the Outstanding Series 2014 Bonds, shall) or any holder or Beneficial Owner (as defined in the Series 2014 Continuing Disclosure Certificate), may take such actions as may be necessary and appropriate to cause the Commission to comply with the provisions of the Series 2014 Continuing Disclosure Certificate.

#### Section 4.02. Tax Matters.

(a) Federal Guarantee Prohibition. The Commission will not take any action or permit or suffer any action to be taken if the result of such action would be to cause the Series 2014A Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(b) Rebate Requirement. The Commission will take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Series 2014A Bonds.



(c) No Arbitrage. The Commission will not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Series 2014A Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Series 2014A Bonds would have caused the Series 2014A Bonds to be "arbitrage bonds" within the meaning of section 148 of the Code.

(d) Maintenance of Tax-Exemption. The Commission will take all actions necessary to assure the exclusion of interest on the Series 2014A Bonds from the gross income of the Owners of the Series 2014A Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of delivery of the Series 2014A Bonds.

(e) Record Retention. The Commission will retain its records of all accounting and monitoring it carries out with respect to the Series 2014A Bonds for at least 3 years after the Series 2014A Bonds mature or are redeemed (whichever is earlier); however, if the Series 2014A Bonds are redeemed and refunded, the Commission will retain its records of accounting and monitoring at least 3 years after the earlier of the maturity or redemption of the obligations that refunded the Series 2014A Bonds.

(f) Compliance with Tax Certificate. The Commission will comply with the provisions of the Tax Certificate and the Use of Proceeds Certificate with respect to the Series 2014A Bonds, which are incorporated herein as if fully set forth herein. The covenants of this Section will survive payment in full or defeasance of the Series 2014A Bonds.

(g) Qualified Bonds. The Commission will assure that the sale proceeds of the Series 2014A Bonds, plus any investment earnings thereon (the "Series 2014A Proceeds") are used in a manner such that the Series 2014A Bonds will satisfy the requirements of section 142(a)(2) of the Code (including the Treasury Regulations thereunder) relating to qualified docks and wharves, and the Commission will use that portion of the Series 2014 Project financed with the Series 2014A Proceeds in such a manner that it qualifies as a dock or wharf within the meaning of section 142(a)(2) of the Code for so long as the Series 2014A Bonds remain outstanding.

(h) Public Use Requirement. The portion of the Series 2014 Project financed with the Series 2014A Proceeds will satisfy the public use requirement either (a) by being located in a public port or (b) by being available for use by members of the general public.

(i) Governmental Ownership Requirement. The Commission covenants that the portion of the Series 2014 Project financed with proceeds of the Series 2014A Bonds will be owned by the Commission or by a governmental unit within the meaning of section 142(b)(1) of the Code. For this purpose, leased property is treated as owned by a governmental unit only if (A) the lessee irrevocably elects (which election is binding on the lessee and all successors under the lease) not to claim depreciation or investment credits for such property; (B) the lease term does not exceed 80% of the reasonably expected economic life of the property financed; and (C) any option to purchase is at a price equal to the fair market value at the time of exercise of the option.

(j) Prohibited Private Business Uses. The Commission covenants that no proceeds of the Series 2014A Bonds will be used to finance the following facilities if such facilities are used for a private business use:

- (i) lodging facilities;



(ii) retail facilities (including food and beverage facilities) in excess of a size necessary to serve passengers and employees at the port facility;

(iii) retail facilities (other than parking) located outside of the port terminal;

(iv) office buildings for use by individuals other than employees of a governmental unit or of the operating authority; and

(v) industrial parks or manufacturing facilities.

(k) Costs of Issuance Limitation. The Commission covenants that, from the proceeds of the Series 2014A Bonds and investment earnings thereon, an amount not in excess of two percent (2%) of the proceeds of the Series 2014A Bonds will be used for costs of issuance of the Series 2014A Bonds, all within the meaning of section 147(g)(1) of the Code. For this purpose, if the fees of the original purchaser of the Series 2014A Bonds are retained as a discount on the purchase of the Series 2014A Bonds, such retention shall be deemed to be an expenditure of Proceeds of the Series 2014A Bonds for said fees.

(l) Limitation of Expenditure of Proceeds. The Commission covenants that not less than 95% of the net proceeds of the Series 2014A Bonds (within the meaning of section 150(a)(3) of the Code) will be paid for Qualified Project Costs.

(m) Limitation on Land Acquisition. The Commission covenants that less than 25% of the Series 2014A Proceeds will be used, directly or indirectly, for the acquisition of land.

(n) Existing Facilities Limit. The Commission covenants that no Proceeds of the Series 2014A Bonds will be used for the acquisition of any tangible property or an interest therein, other than land or an interest in land, unless the first use of such property is pursuant to such acquisition; provided, however, that this limitation will not apply with respect to any building (and the equipment therefor) if rehabilitation expenditures (as defined in section 147(d) of the Code) with respect to such building equal or exceed 15% of the portion of the cost of acquiring such building (and equipment) financed with Proceeds of the Series 2014A Bonds; and provided, further, that this limitation will not apply with respect to any structure other than a building if rehabilitation expenditures with respect to such structure equal or exceed 100% of the portion of the cost of acquiring such structure financed with the Series 2014A Proceeds.

(o) Certain Uses Prohibited. The Commission covenants that no Series 2014A Proceeds will be used directly or indirectly to provide any airplane, skybox or other private luxury box, health club facility, facility used for gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(p) Limitation on Office Space. The Commission covenants that no Proceeds of the Series 2014A Bonds will be used to finance office space unless the office is located on the premises of that portion of the Series 2014 Project financed with the Series 2014A Proceeds and not more than a de minimis amount of the functions to be performed at such office is not directly related to the day-to-day operations at that portion of the Series 2014 Project financed with the Series 2014A Proceeds.

Section 4.03. Effective Date of Second Supplemental Indenture. This Second Supplemental Indenture shall take effect upon its execution and delivery.





Section 4.04. Existing Indenture to Remain in Effect. Except as provided in this Second Supplemental Indenture, the Existing Indenture shall remain in full force and effect. In the event of any conflict between the provisions of this Second Supplemental Indenture and the Existing Indenture, the provisions of this Second Supplemental Indenture shall govern.

Section 4.05. Execution in Counterparts. This Second Supplemental Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed this Second Supplemental Indenture by their officers thereunto duly authorized as of the day and year first written above.

PORT COMMISSION OF THE CITY AND  
COUNTY OF SAN FRANCISCO

\_\_\_\_\_  
Executive Director

ATTEST:

\_\_\_\_\_  
Commission Secretary

U.S. BANK NATIONAL ASSOCIATION, as Trustee

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Authorized Officer



## (FORM OF SERIES 2014 BOND)

No.

\$ \_\_\_\_\_

**PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO  
REVENUE BONDS  
SERIES 2014[A/B]**

Interest RateMaturity DateDated DateCusip

March 1, 20\_\_

\_\_\_\_\_, 2014

**PRINCIPAL AMOUNT:****REGISTERED OWNER:** CEDE & CO.

The PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (hereinafter sometimes called the "Commission"), a public body, corporate and politic, duly organized and existing under the Constitution and statutes of the State of California and the Charter of the City and County of San Francisco (the "Charter"), for value received, hereby promises to pay (but solely out of the funds hereinafter mentioned) to the registered owner hereof as shown above or registered assigns (herein sometimes referred to as the "Owner" or "Holder"), subject to the right of prior redemption hereinafter mentioned, the Principal Amount specified above, on the maturity date specified above, and to pay such Owner on each March 1 and September 1 of each year commencing on September 1, 2014 (each, a "Series 2014 Interest Payment Date") by check or draft mailed by the Trustee hereinafter referred to on the Series 2014 Interest Payment Date via first class mail to such Owner at such Owner's address shown on the registration books of the Trustee as of the close of business on the fifteenth day of the month preceding each Series 2014 Interest Payment Date (the "Series 2014 Record Date"), or by federal wire transfer to an account in the United States designated by such Owner of Bonds in the aggregate Principal Amount of \$1,000,000 or more, upon provision of a written notice received by the Trustee prior to the applicable Series 2014 Record Date, interest on such Principal Amount from the Series 2014 Interest Payment Date immediately preceding the date of authentication hereof (unless (i) the date of authentication hereof is prior to the first regular Series 2014 Record Date in which event from the dated date specified above, or (ii) the date of authentication hereof is a Series 2014 Interest Payment Date, in which event from that Series 2014 Interest Payment Date, or (iii) the date of authentication hereof is after a regular Series 2014 Record Date but before the following Series 2014 Interest Payment Date, in which event it shall bear interest from such Series 2014 Interest Payment Date) until the Principal Amount hereof shall have been paid or provided for in accordance with the Indenture hereinafter referred to, at the interest rate per annum set forth above payable semiannually on each Series 2014 Interest Payment Date. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. The Principal Amount of and redemption premiums, if any, and interest on the Series 2014 Bonds shall be paid in lawful money of the United States of America. The Principal Amount of and redemption premiums, if any, on the Series 2014 Bonds and payments of interest due at maturity or earlier redemption of the Series 2014 Bonds, shall



be payable upon the surrender thereof at the corporate trust office (the "Corporate Trust Office") of U.S. Bank National Association, as trustee (the "Trustee"), in San Francisco, California. All capitalized terms which are used herein, unless otherwise defined herein, shall have the meanings ascribed to such terms in the Indenture (as hereinafter defined).

The Bonds (as defined in the Indenture hereinafter referred to) are special, limited obligations of the Commission, and are payable as to Principal Amount, redemption premium, if any, and interest, out of the Net Revenues, and not out of any other funds or moneys of the Commission not pledged thereto, as further provided in the Indenture. No Holder of the Bonds shall have the right to compel any exercise of the taxing power of the Commission, the City, the State of California or any political subdivision thereof to pay the Principal Amount of or the redemption premium, if any, or interest on the Bonds. This Bond is not a lien, charge or liability, as to either the Principal Amount or interest, against the State of California or any political subdivision thereof or against the Commission, the City or the Board of Supervisors of the City, or against the property or funds of any of the foregoing, except to the extent of the pledge of Net Revenue, as provided by the Indenture.

This Bond is one of a duly authorized issue of Bonds of the Commission designated "Port Commission of the City and County of San Francisco Revenue Bonds, Series 2014\_" (herein called the "Series 2014\_ Bonds"), in an aggregate principal amount of \$\_\_\_\_\_, all of like tenor and date (except for bond numbers, interest rates, amounts and maturity) and all of which have been issued pursuant to and in full conformity with the Constitution and laws of the State of California and the Charter. The Series 2014\_ Bonds are authorized by and issued pursuant to certain resolutions duly adopted by the City and the Commission and under the Indenture of Trust, dated as of February 1, 2010, as amended and supplemented by a First Supplement to Indenture of Trust, dated as of February 1, 2010 (the "First Supplement"), and as further amended and supplemented by a Second Supplement to Indenture of Trust, dated as of March 1, 2014 (together, the "Indenture"), each by and between the Commission and the Trustee, a copy of which is on file with the Secretary of the Commission and the Trustee. This Bond will be secured on parity with two outstanding series of Bonds designated as "Revenue Bonds, Series 2010A (Non-AMT Tax-Exempt)" and "Revenue Bonds, Series 2010B (Taxable)" and with any other Outstanding Bonds hereafter issued in accordance with the Indenture.

All of the Bonds are equally secured in accordance with the terms of the Indenture, reference to which is hereby made for a specific description of the security provided for said Bonds, for the nature, extent and manner of enforcement of such security and for the covenants and agreements made for the benefit of the Holders of the Bonds. By the acceptance of this Bond the Owner hereof consents to all of the terms, conditions and provisions of the Indenture. All of the provisions of the Indenture are hereby incorporated by reference into this Bond as if set forth in full herein, and any inconsistency between the provisions of this Bond and the Indenture shall be resolved in favor of the Indenture. In the manner provided in the Indenture, said Indenture and the rights and obligations of the Commission and of the Holders of Bonds may (with certain exceptions as stated in said Indenture) be amended or supplemented with the consent of the Holders of at least fifty-one percent (51%) in aggregate Principal Amount of Outstanding Bonds of all Series affected by such amendment, unless such amendment is for the purpose of, among other things, curing ambiguities or formal defects or omissions, correcting or supplementing any provision which may be inconsistent with any other provision or to make any other change or addition which shall not have a material adverse effect on the interests of the Holders, in which case no Bondholders' consent is required.



The Series 2014\_ Bonds shall be subject to optional and mandatory redemption as provided in the Indenture.

This Bond is issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof and is negotiable upon proper transfer of registration. This Bond is transferable by the Owner hereof or by his duly authorized attorney, at the Corporate Trust Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the taxes and charges provided in the Indenture, upon surrender and cancellation of this Bond. Upon such transfer, a new Series 2014\_ Bond of any authorized denomination or denominations for the same aggregate principal amount and maturity of the same issue will be issued to the transferee in exchange therefor. This Bond may also be exchanged for a like aggregate principal amount of Series 2014\_ Bonds of other authorized denominations of the same maturity and interest rate, but only in the manner, subject to the limitations and upon payment of the taxes and charges provided in the Indenture, upon surrender and cancellation of this Bond.

The Commission and the Trustee shall not be required to issue, register the transfer of, or exchange (i) any Series 2014\_ Bond during the period beginning on the fifteenth day of the month preceding each Series 2014 Interest Payment Date and ending on such Series 2014 Interest Payment Date, during the fifteen (15) days preceding the selection of Series 2014\_ Bonds for redemption, on any date on which notice of redemption is scheduled to be mailed or on any redemption date, or (ii) any Series 2014\_ Bond selected for redemption.

The Commission and the Trustee may treat the Owner hereof as the absolute Owner hereof for all purposes, and the Commission and the Trustee shall not be affected by any notice to the contrary.

This Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

The Commission by execution of this Bond hereby certifies that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by this Bond, and in the issuing of this Bond, do exist, have happened and have been performed in due time, form and manner, as required by the Constitution and statutes of the State of California and the Charter, and that this Bond, together with all other indebtedness of the Commission pertaining to the Port Area, is within every debt and other limit prescribed by the Constitution and statutes of the State of California and said Charter.





IN WITNESS WHEREOF, the PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO has caused this Bond to be signed on its behalf by the signature of its Executive Director, all as of the Dated Date set forth above.

By: \_\_\_\_\_  
Executive Director of the Port



(FORM OF CERTIFICATE OF AUTHENTICATION OF BONDS)

This is one of the Bonds described in the within mentioned Indenture.

Date of Authentication: \_\_\_\_\_, 2010

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Signatory

\* \* \* \* \*

(FORM OF ASSIGNMENT OF BONDS)

For value received \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within mentioned Bond and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to transfer the same on the books of the Trustee with full power of substitution in the premises.

NOTE: The signature(s) on this Bond must correspond with the name(s) as written on the face of the within Registered Bond in every particular, without alteration or enlargement or any change whatsoever.

Dated: \_\_\_\_\_, 20\_\_

Signature Guaranteed By:

\_\_\_\_\_  
NOTE: Signature must be guaranteed by an eligible guarantor institution.



ATTACHMENT 3  
\$ \_\_\_\_\_  
PORT COMMISSION OF THE  
CITY AND COUNTY OF SAN FRANCISCO  
REVENUE BONDS

\$ \_\_\_\_\_  
SERIES 2014A  
(AMT)

\$ \_\_\_\_\_  
Series 2014B  
(Taxable)

BOND PURCHASE CONTRACT

\_\_\_\_\_, 2014

Port Commission of the  
City and County of San Francisco  
Port of San Francisco  
Pier 1  
San Francisco, CA 94111

Ladies and Gentlemen:

\_\_\_\_\_ (the “Underwriter”) offers to enter into this bond purchase contract (this “Purchase Contract”) with the Port Commission of the City and County of San Francisco (the “Commission”), which will be binding upon the Commission and the Underwriter upon acceptance hereof by the Commission. This offer is made subject to the acceptance by the Commission by the execution of this Purchase Contract and its delivery to the Underwriter on or before 11:59 p.m., California time, on the date hereof and, if not so accepted, will be subject to withdrawal by the Underwriter upon written notice delivered to the Commission at any time prior to the acceptance of this Purchase Contract by the Commission. If the Underwriter withdraws this offer, or the Underwriter’s obligation to purchase the Bonds (as hereinafter defined) is otherwise terminated pursuant to Section 8(d) hereof, then and in such case, the City shall be without any further obligation to the Underwriter, including the payment of any costs set forth under Section 10(a) hereof, and the City shall be free to sell the Bonds to any other party.

Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture of Trust dated as of February 1, 2010 (the “Master Indenture”), between the Commission and U.S. Bank National Association (the “Trustee”), as trustee, as amended and supplemented pursuant to the First Supplement to Indenture of Trust dated as of February 1, 2010 (the “First Supplement to Indenture”) and the Second Supplement to Indenture of Trust dated as of \_\_\_\_\_ 1, 2014 (the “Second Supplement to Indenture”), each between the Commission and the Trustee (the Master Indenture, as so amended and supplemented, the “Indenture”).



*Section 1. Purchase and Sale.* Upon the terms and conditions and upon the basis of the representations set forth herein, the Underwriter agrees to purchase from the Commission, and the Commission hereby agrees to sell and deliver to the Underwriter, all (but not less than all) of the Port Commission of the City and County of San Francisco Revenue Bonds, Series 2014, consisting of \$\_\_\_\_\_ aggregate principal amount of Series 2014A (AMT) (the “*Series 2014A Bonds*”) and \$\_\_\_\_\_ aggregate principal amount of Series 2014B (Taxable) (the “*Series 2014B Bonds*,” and together with the Series 2014A Bonds, the “*Bonds*”). The Bonds shall be dated their date of delivery and shall have the maturities and bear interest at the rates per annum and have the yields all as set forth on Schedule I attached hereto.

The purchase price for the Bonds shall be \$\_\_\_\_\_ (comprised of the principal amount of the Bonds, [plus/less a net original issue premium/discount on the Bonds of \$\_\_\_\_\_,] less an Underwriter’s discount in the amount of \$\_\_\_\_\_). The Bonds shall be substantially in the form described in, and shall be issued and secured under and pursuant to, the Indenture. The Bonds shall mature and shall be as otherwise described in the Official Statement. The Commission will deliver the Continuing Disclosure Certificate substantially in the form set forth as an Appendix to the Preliminary Official Statement (the “*Continuing Disclosure Certificate*”) on the Closing Date (as defined herein). A form of the Continuing Disclosure Certificate will also be set forth in the Official Statement.

*Section 2. Authorization for the Bonds; Purpose of Issue.* Under Section 9.107 of the Charter (the “*City Charter*”) of the City and County of San Francisco (the “*City*”) and Chapter 43, Article XII of the City and County of San Francisco Administrative Code (the “*Port Bond Ordinance*”), the Commission has the authority to issue port revenue bonds for the purpose of acquiring, constructing, improving or developing ports or port facilities under its jurisdiction and port revenue refunding bonds under such terms and conditions as the Commission may authorize by resolution. The issuance of the Bonds was approved by the Commission pursuant to a resolution of the Commission adopted on \_\_\_\_\_, 20\_\_ (the “*Commission Resolution*”) and by the Board pursuant to a resolution of the Board of Supervisors of the City adopted on \_\_\_\_\_, 20\_\_ and signed by the Mayor of the City on \_\_\_\_\_, 20\_\_ (the “*City Resolution*,” and together with the Commission Resolution, the “*Resolutions*”), each authorizing the issuance and sale of the Bonds.

The Bonds are being issued (i) to finance the construction, reconstruction, repair and/or improvements to various facilities operated by the Commission, finance the cost of design of a [describe projects], (ii) to make a deposit into the Series 2014 Reserve Account within the Reserve Fund for the Bonds in the amount of the Series 2014 Reserve Requirement, and (iii) to pay certain costs of issuance of the Bonds.

*Section 3. Public Offering.* It shall be a condition to the obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds that the entire principal amount of the Bonds be sold and delivered by the Commission to the Underwriter. Subsequent to the initial public offering, the public offering prices of the Bonds may change as determined by the Underwriter as deemed necessary in connection with the marketing of the Bonds.





*Section 4. Delivery of Official Statement.* Prior to the date hereof, the Commission has provided to the Underwriter for review a form of preliminary official statement relating to the Bonds dated \_\_\_\_\_, 2014 (including the cover page and appendices thereto, the "*Preliminary Official Statement*"), which as of its date, a representative of the Commission on behalf of the Commission deemed final for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 ("*Rule 15c2-12*"), except for certain information permitted to be omitted therefrom by Rule 15c2-12. By its acceptance of this offer, the Commission hereby ratifies the use and distribution by the Underwriter of the Preliminary Official Statement and the Commission has authorized the delivery of a final official statement relating to the Bonds dated the date hereof (the "*Official Statement*") which will consist of the Preliminary Official Statement and all information previously permitted to have been omitted by Rule 15c2-12.

The Commission hereby acknowledges that the Preliminary Official Statement has been made available to investors on the Internet at \_\_\_\_\_. The Commission hereby agrees to deliver or cause to be delivered to the Underwriter within seven Business Days of the date hereof and at least in sufficient time to accompany any orders or confirmations that request payment from any customers, not more than 250 copies of the final official statement (including all information permitted to be omitted by Rule 15c2-12 and any amendments or supplements to such official statement as have been approved by the Commission and the Underwriter) (the "*Official Statement*") to enable the Underwriter to comply with the rules of the Securities and Exchange Commission (the "*SEC*") and the Municipal Securities Rulemaking Board (the "*MSRB*"). The Commission hereby approves of the use and distribution by the Underwriter of the Official Statement in connection with the offer and sale of the Bonds. At the time of or prior to the Closing Date (as hereinafter defined), the Underwriter shall file a copy of the Official Statement with the MSRB or its designee (including the MSRB's Electronic Municipal Market Access ("*EMMA*") system) or with any other repository approved from time to time by the SEC (either in addition to or in lieu of the filings referred to above).

*Section 5. The Closing.* At 8:00 a.m., California time, on \_\_\_\_\_, 2014, or at such other time or on such other date as the Commission and the Underwriter may agree (the "*Closing Date*"), the Commission shall deliver, or cause to be delivered to the Underwriter through the F.A.S.T. delivery system of The Depository Trust Company ("*DTC*"), the Bonds in book-entry form, duly executed and authenticated. Concurrently with the delivery of the Bonds to the Underwriter, the Commission will deliver the documents hereinafter mentioned at the offices of [JH or SH], in San Francisco, California, or another place to be mutually agreed upon by the Commission and the Underwriter. The Underwriter shall accept such delivery and pay the purchase price for the Bonds set forth in Section 1 in immediately available funds to the order of the Trustee. This payment for and delivery of the Bonds, together with the delivery of the aforementioned documents, is herein called the "*Closing*." The Commission with the assistance of the Underwriter shall cause CUSIP identification numbers to be printed on the Bonds; *provided* that neither the failure to print such number on any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the Underwriter to accept the Bonds. The Underwriter represents that the CUSIP numbers set forth on Schedule I hereof are the correct CUSIP numbers for the Bonds. The Bonds shall be made available to the Trustee at least two (2) business days prior to the Closing.



*Section 6. Representations, Warranties and Covenants of the Commission.* The Commission represents, warrants and covenants to Underwriter as follows:

(a) *Due Organization, Existence and Authority.* The Commission is a duly constituted public commission of the City and County of San Francisco duly organized and validly existing pursuant to its Charter and the Constitution and laws of the State, with full authority to: (i) adopt the Commission Resolution; (ii) execute and deliver the Second Supplement to the Indenture, the Continuing Disclosure Certificate and this Purchase Contract; (iii) approve the Official Statement and authorize its distribution by the Underwriter; (iv) sell and deliver the Bonds to the Underwriter as provided herein and (v) carry out and consummate the other transactions contemplated by such documents.

(b) *Accuracy and Completeness of the Official Statement.* The information with respect to the Commission, its activities and the Port as described in the Official Statement is, and at all times subsequent to the date of the Official Statement up to and including the date of the Closing will be, true and correct in all material respects, contains and will contain no misstatement of any material fact and did not and will not omit any statement and information that is necessary to make the statements and information with respect to the Commission contained therein, in the light of the circumstances under which such statements were made, not misleading in any material respect, excluding in each case any information contained in the Official Statement relating to DTC and the book-entry only system and the information under the caption "UNDERWRITING."

(c) *Official Statement.* If, at any time prior to the date twenty-five (25) days following the later of (a) the Closing or (b) the date the Underwriter no longer retains, directly or as member of an underwriting syndicate, an unsold balance of the Bonds for sale to the public (the later of (a) or (b) being the "*End of the Underwriting Period*"), an event occurs or facts or conditions become known of which the Commission has knowledge, which in the reasonable opinion of Jones Hall, A Professional Law Corporation and Schiff Hardin LLP ("*Co-Bond Counsel*") or the General Counsel to the Commission or the City Attorney might or would cause the information in the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Commission will notify the Underwriter, and, if in the reasonable opinion of the Underwriter and the Commission such event, fact or condition requires the preparation and publication of a supplement or amendment to the Official Statement, the Commission will amend or supplement the Official Statement in a form and in a manner reasonably approved by the Underwriter and the Commission, provided all expenses incurred in connection with preparing an amendment or supplement to the Official Statement will be paid by the Commission. As used herein and for the purposes of the foregoing, the term "*End of the Underwriting Period*" for the Bonds shall refer to the Closing, unless the Commission shall have been notified in writing to the contrary by the Underwriter on or prior to the Closing. For the purposes of this subsection, the Commission will furnish such information as the Underwriter may from time to time reasonably request in writing prior to the End of the Underwriting Period.



(d) *No Breach or Default.* As of the time of acceptance hereof and as of the Closing Date and except as otherwise disclosed in the Official Statement, neither the execution nor the delivery by the Commission of the Second Supplement to the Indenture, the Continuing Disclosure Certificate or this Purchase Contract, the adoption of the Commission Resolution, or the compliance by the Commission with such documents or authorizations, or the consummation of the transactions contemplated by such documents or by the Indenture or the Official Statement: (i) conflicts with or constitutes a material breach of or default under any applicable law or administrative regulation of the State or the United States, or any other statute or administrative rule or regulation, judgment, decree, order, license, permit, agreement or instrument to which the Commission is subject which breach, default or conflict would have a material adverse effect on the ability of the Commission to repay the Bonds or have a material adverse effect on the ability of the Commission to perform its obligations under the Indenture, the Continuing Disclosure Certificate or this Purchase Contract.

(e) *No Other Bond Issues or Debt.* Between the time of acceptance hereof and the Closing Date, the Commission will not, without the prior notice to the Underwriter, issue any bonds or securities or incur any other indebtedness secured by the Net Revenue of the Commission.

(f) *No Litigation.* The Commission shall certify that, as of the date hereof and as of the Closing Date, and except as disclosed in the Official Statement, there is no action, suit, proceedings, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, pending or, to the best knowledge of the Commission, threatened against the Commission affecting the existence of the Commission or the titles of its officers to their respective offices or seeking to restrain or to enjoin the sale or delivery of the Bonds, the application of the proceeds thereof in accordance with the Indenture, or in any way contesting or affecting the validity or enforceability of the Bonds, the Indenture or any action of the Commission contemplated by any of said documents, or in any way contesting the completeness or accuracy of this Official Statement or any amendment or supplement thereto, or contesting the powers of the Commission with respect to the Bonds or any action of the Commission contemplated by any of said documents, nor to the knowledge of the members of the Commission, as evidenced by the representative of the Commission signing this Purchase Contract, is there any basis therefor. The Commission shall further certify that, as of the date hereof and as of the Closing Date, and except as disclosed in the Official Statement, there is no action, suit, proceedings, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, pending or, to the best knowledge of the Commission, threatened against the Commission in which a final adverse decision would materially and adversely affect the operations of the Port or the consummation of the transactions contemplated by this Purchase Contract; or contesting in any way the completeness, accuracy or fairness of the Official Statement.

(g) *Further Cooperation; Blue Sky.* The Commission will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order to qualify the Bonds for



offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate; *provided, however*, that the Commission will not be required to execute a special or general consent to service of process or qualify as a foreign corporation in connection with any such qualification in any jurisdiction.

*Section 7. Representations, Covenants and Agreements of the Underwriter.* The Underwriter represents, covenants and agrees with the Commission that:

(a) The Underwriter has been duly authorized to enter into this Purchase Contract.

(b) The Underwriter shall comply with the San Francisco Business Tax Ordinance and shall, if not otherwise exempt from such ordinance, provide to the Commission a Business Tax Registration Certificate on or prior to the date hereof.

(c) The Underwriter shall comply with Chapter 12B of the San Francisco Administrative Code, entitled "Nondiscrimination in Contracts," which is incorporated herein by this reference.

*Section 8. Closing Conditions.* The Underwriter has entered into this Purchase Contract in reliance upon the representations, warranties and covenants herein and the performance by the Commission of its obligations hereunder, both as of the date hereof and as of the Closing Date. The obligations of the Underwriter under this Purchase Contract are and shall be subject to the following conditions:

(a) *Bring-Down Representation.* The representations and warranties of the Commission contained herein shall be true, accurate and correct in all material respects at the date hereof and on the Closing Date, as if made on the Closing Date.

(b) *Executed Documents and Performance Thereunder.* At the time of the Closing (i) the Indenture, this Purchase Contract and the Official Statement shall be in full force and effect, and shall not have been amended, modified or supplemented except with the consent of the Underwriter (which consent will not be unreasonably withheld); and (ii) the Commission shall perform or have performed all of its obligations required under or specified in this Purchase Contract, the Official Statement and the Indenture to be performed prior to the Closing.

(c) *No Default.* At the time of the Closing, no default shall have occurred or be existing under the Indenture or this Purchase Contract.

(d) *Termination Events.* The Underwriter may terminate this Purchase Contract by notification in writing to the Commission, but only after consultation with the Commission in the manner set forth in the paragraphs immediately below, if, at any time on or prior to the Closing, any of the following occurs and, as a result of the occurrence of such an event, the marketability of the Bonds or the market price thereof,





in the reasonable opinion of the Underwriter after consultation with the Commission, would be materially adversely affected, *provided, however*, that, in the event the Commission and the Underwriter disagree as to the effect of the occurrence of such event on the ability of the Underwriter to market the Bonds, this Purchase Contract may only be terminated by the Underwriter after the Underwriter and the Commission shall have negotiated in good faith to determine an alternate time, place and manner which would permit the Underwriter to successfully market the Bonds:

(i) any event shall occur which makes untrue any statement or results in an omission to state a material fact necessary to make the statements in the Official Statement, in the light of the circumstances under which they were made, not misleading and the Commission fails to amend or supplement the Official Statement pursuant to Section 6(c) hereof; or

(ii) an amendment to the Constitution of the United States or the Constitution of the State or legislation in or by the Congress of the United States or the legislature of the State, or the amendment of legislation pending as of the date of this Purchase Contract in the Congress of the United States, or the favorable reporting for passage of legislation to either House of the Congress of the United States by a Committee of such House to which such legislation has been referred for consideration, or any decision of any federal or State court or any ruling or regulation (final, temporary or proposed) or official statement on behalf of the United States Treasury Department, the Internal Revenue Service or other federal or State authority or the occurrence of any other comparable legislative or regulatory event affecting the federal or State tax status of the interest on bonds or obligations of the general character of the Series 2014A Bonds; or

(iii) any legislation, ordinance, rule or regulation shall be introduced in, or be enacted by any governmental body, department or agency of the State, or a decision by any court of competent jurisdiction within the State shall be rendered which, in the reasonable opinion of the Underwriter and upon consultation with the Commission, materially adversely affects the market price of the Bonds; or

(iv) a stop order, ruling, regulation or official statement by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including all underlying obligations, as contemplated hereby or by the Official Statement, is in violation or would be in violation of any provision of the federal securities laws, including the Securities Act of 1933, as amended and as then in effect, or that the Indenture need be qualified under the Trust Indenture Act of 1939, as amended and as then in effect; or



(v) legislation shall be enacted by the Congress of the United States, or a decision by a court of the United States shall be rendered, to the effect that obligations of the general character of the Bonds, or the Bonds, are not exempt from registration under the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or that the Indenture is not exempt from qualification under the Trust Indenture Act of 1939, as amended and as then in effect; or

(vi) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in the United States in securities generally by any governmental authority or by any national securities exchange; or

(vii) a general banking moratorium shall have been declared by federal, State or State of New York authorities; or

(viii) the ratings on the Bonds shall have been downgraded or withdrawn subsequent to the date of this Purchase Contract by two of the three rating agencies rating the Bonds; or

(ix) a decision by a federal or State court or legislative action which causes, or in the reasonable opinion of the Underwriter and the Commission, would cause a material reduction in the Net Revenue which would materially adversely affect the Commission's ability to repay the Bonds; or

(x) there shall be (a) any change in or addition to applicable federal or state law, whether statutory or as interpreted by the courts or by federal or state agencies, including any changes in or new rules, regulations or other pronouncements or interpretations by federal or state agencies, (b) any legislation enacted by the Congress of the United States or recommended for passage by the President of the United States (if such enacted, introduced or recommended legislation has a proposed effective date which is on or before the Closing Date), (c) any law, rule or regulation proposed or enacted by any governmental body, department or agency (if such proposed or enacted law, rule or regulation has a proposed effective date which is on or before the Closing Date) or (d) any judgment, ruling or order issued by any court or administrative body, which in any such case would, prohibit (or have the retroactive effect of prohibiting, if enacted, adopted, passed or finalized) the Underwriter from underwriting the Bonds as provided herein or selling the Bonds to the public.

The termination of this Purchase Contract pursuant to this Section 8(d) by the Underwriter with respect to the Bonds shall not prohibit the Commission from selling such Bonds to any other underwriter.



(e) *Closing Documents.* At or prior to the Closing, the Underwriter shall receive with respect to the Bonds (unless the context otherwise indicates) the following documents, in each case satisfactory in form and substance to the Underwriter:

(1) *Approving Authorizations.* Certified copies of the Resolutions, the Ordinance and Section 9.107 of the City Charter.

(2) *Bond Documents.* Executed originals of the Indenture, the First Supplement to Indenture, the Second Supplement to Indenture the Continuing Disclosure Certificate and this Purchase Contract.

(3) *Final Opinion.* An approving opinion or opinions of Co-Bond Counsel, dated the Closing Date, and substantially in the form attached to the Official Statement, and a letter of such counsel addressed to the Underwriter to the effect that such opinion may be relied upon by the Underwriter to the same extent as if it had been addressed to each of them.

(4) *Supplemental Opinion.* A supplemental opinion or opinions of Co-Bond Counsel addressed to the Commission and the Underwriter, dated the Closing Date, to the following effect:

(i) The statements contained in the Official Statement under the captions "TERMS OF THE BONDS," "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS," "TAX MATTERS," Appendix B—"SUMMARY OF THE LEGAL DOCUMENTS," and Appendix E—"PROPOSED FORM OF LEGAL OPINION OF CO-BOND COUNSEL," insofar as such statements purport to summarize certain provisions of the Ordinance and Section 9.107 of the City Charter, the Bonds, the Indenture, and the opinion of Co-Bond Counsel with respect to the exclusion from gross income of interest on the Senior 2014A Bonds for federal income tax purposes are accurate in all material respects.

(ii) The Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended.

(iii) This Purchase Contract, the Second Supplement to the Indenture and the Continuing Disclosure Certificate have each been duly authorized, executed and delivered by the Commission and constitute the valid, legal and binding agreements of the Commission, each enforceable in accordance with its respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium or other similar laws affecting enforcement of creditors' rights, by the application of equitable principles if equitable remedies are sought and limitations on the enforcement of legal remedies against public agencies in the State.



(5) *Disclosure Counsel Opinion As to Official Statement.* An opinion or opinions of Hawkins, Delafield & Wood LLP, as Disclosure Counsel to the Commission, addressed to the Commission, dated the Closing Date, in form and substance satisfactory to the Commission.

(6) *Certificate of the Commission.* A certificate of the Commission dated the Closing Date, signed on behalf of the Commission by an authorized officer of the Commission, to the effect that:

(i) The representations and warranties of the Commission contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date.

(ii) No event affecting the Commission has occurred since the date of the Official Statement which has not been disclosed therein or in any supplement or amendment thereto which event should be disclosed in the Official Statement in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(7) *Certificate of the Trustee.* A certificate of the Trustee, dated the Closing Date, to the effect that:

(i) The Trustee is a national banking association organized and existing under the laws of the United States of America and has full power and is qualified to accept and comply with the terms of the Indenture and to perform its obligations thereunder.

(ii) The Trustee has accepted the duties and obligations imposed on it by the Indenture.

(iii) No consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the consummation by the Trustee of the transactions contemplated by the Indenture to be undertaken by the Trustee.

(iv) Compliance with the terms of the Indenture will not conflict with, or result in a violation or breach of, or constitute a default under, any loan agreement, indenture, bond, note, resolution or any other agreement or instrument to which the Trustee is a party or by which it is bound, or, to the best knowledge of the Trustee, after reasonable investigation, any law, rule, regulation, order or decree of any court or governmental agency or body having jurisdiction over the Trustee or any of its activities or properties (except that no representation, warranty or agreement is made by the Trustee with respect to any federal or state securities or Blue Sky laws or regulations).





(v) To the knowledge of the Trustee after due inquiry, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court or governmental agency, public board or body served on or threatened against or affecting the existence of the Trustee, or in any way contesting or affecting the validity or enforceability of the Indenture or the Bonds, or contesting the powers of the Trustee or its authority to enter into and perform its obligations under the Indenture or the Bonds, wherein an unfavorable decision, ruling or finding would adversely affect the validity of the Bonds or the Indenture.

(8) *Trustee's Counsel Opinion.* An opinion of counsel to the Trustee addressed to the Commission and the Underwriter, dated the Closing Date, in substantially the form attached hereto as Exhibit A.

(9) *Tax Certificates.* A No-Arbitrage Certificate of the Commission and Certificate as to Use of Proceeds of the Commission, each dated the Closing Date, in form satisfactory to Co-Bond Counsel.

(10) *California Debt and Investment Advisory Commission Filings.* Copies of the Report of Proposed Debt Issuance and Report of Final Sale required to be delivered to the California Debt and Investment Advisory Commission pursuant to Section 53583 of the Government Code and Section 8855(g) of the Government Code.

(11) *Continuing Disclosure Certificate.* An executed copy of the Continuing Disclosure Certificate in substantially the form attached to the Official Statement as Appendix C.

(12) *Rating Letters for the Bonds.* Rating Letters of Moody's Investors Service, Inc. ("Moody's") Standard & Poor's Credit Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P"), and FitchRatings ("Fitch"), evidencing that such rating agencies have assigned their municipal bond ratings of "\_\_\_\_," "\_\_\_\_" and "\_\_\_\_," respectively.

(13) *Additional Documents.* Such additional certificates, instruments and other documents as Co-Bond Counsel, the Underwriter or the City Attorney may reasonably deem necessary to evidence the truth and accuracy as of the time of the Closing of the representations of the Commission and the due performance or satisfaction by the Commission at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Commission.

If the Commission shall be unable to satisfy the conditions contained in this Purchase Contract, or if the obligations of the Underwriter shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate and the Underwriter and the Commission shall not be under further obligation hereunder, except as further set forth in Section 10 hereof.



*Section 9. Good Faith Deposit.* To secure the Commission from any loss resulting from the failure of the Underwriter to accept delivery of and pay the purchase price for the Bonds pursuant to the terms of this Purchase Contract, the Underwriter agrees to deliver to the Commission, concurrently with the execution and delivery of this Purchase Contract, either an official bank check (which may be deposited by the Commission upon receipt) or a federal funds wire transfer in the amount of \$\_\_\_\_\_ (representing \_\_\_\_ percent (\_\_\_\_%) of the principal amount of the Bonds) (the "Good Faith Deposit"). At the Closing, the Good Faith Deposit will be applied towards and deducted from the aggregate net purchase price for the Bonds as provided in Section 1 of this Purchase Contract. If the Underwriter fails to pay the purchase price in full upon tender of the Bonds (other than for a reason permitted under Section 8 hereof), the Commission may retain such Good Faith Deposit as and for liquidated damages for such failure by the Underwriter. In such circumstance, the Underwriter will have no right to recover the Good Faith Deposit or to any allowance or credit therefor. Retaining the Good Faith Deposit shall constitute the Commission's sole and exclusive remedy and full liquidated damages for the Underwriter's failure (other than for a reason expressly set forth herein) to purchase and accept delivery of the Bonds pursuant to the terms of this Purchase Contract and the Underwriter shall be released and discharged from any and all claims for damages by the Commission against the Underwriter related to such failure and any other defaults by Underwriter hereunder. The Underwriter and the Commission hereby acknowledge and agree that the amount fixed pursuant to this Section for liquidated damages does not constitute a penalty and is a reasonable estimate of the damages that the Commission would sustain in the event of the Underwriter's failure to purchase and to accept delivery of the Bonds on the Closing Date pursuant to the terms of this Purchase Contract. The amount is agreed upon and fixed as liquidated damages because of the difficulty of ascertaining as of the date hereof the actual amount of damages that would be sustained in such event. If the Commission fails to deliver the Bonds on the Closing Date pursuant to this Purchase Contract, or if the conditions to the obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds as set forth in this Purchase Contract shall not be satisfied (unless waived in writing by the Underwriter pursuant to this Purchase Contract), or if this Purchase Contract is terminated for a reason set forth in Section 8 hereof, the Commission shall promptly return the Good Faith Deposit to the Underwriter, plus interest (which shall accrue [at the interest rate at which private depository institutions lend balances at the Federal Reserve to other depository institutions]). Upon such return of the Good Faith Deposit to the Underwriter, this Purchase Contract shall terminate, and neither party shall have any further obligations hereunder.

*Section 10. Expenses.*

(a) *Commission.* The Commission shall pay or cause to be paid (but solely from the proceeds of the Bonds and not otherwise) the expenses incident to the performance of the obligations of the Commission hereunder, including but not limited to: (1) the cost of printing of the Preliminary Official Statement and the final Official Statement in reasonable quantities and all other documents prepared in connection with the transactions contemplated hereby; (2) the fees and disbursements of the Trustee and counsel to the Trustee in connection with the issuance of the Bonds; (3) the fees and disbursements of Co-Bond Counsel and of Public Financial Management, Inc. and Backstrom McCarley Berry & Co., LLC, as Co-Financial Advisors to the



Commission, and any other experts or consultants retained by the Commission in connection with the transactions contemplated hereby; and (4) the costs related to obtaining ratings.

(b) *Underwriter.* The Underwriter shall pay: (1) the cost of preparation and printing of Blue Sky and Legal Investment Memoranda, if any, to be used by it; (2) all advertising expenses in connection with the public offering of the Bonds; (3) California Debt and Investment Advisory Commission fees; and (4) all other expenses incurred by the Underwriter in connection with its public offering and distribution of the Bonds, including, without limitation, any experts or other consultants hired or retained by the Underwriter, including Underwriter's counsel, the fees and charges of the CUSIP Bureau, and the MSRB, Bond Market Association and California Public Securities Association.

*Section 11. City Contracting Requirements.* The Underwriter hereby represents to the Commission that it has reviewed and will comply with the following City contracting requirements:

(a) *Conflict of Interest.* Through its execution of this Purchase Contract, Underwriter acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Purchase Contract.

(b) *Proprietary or Confidential Information of City.* Underwriter understands and agrees that, in the performance of the work or services under this Purchase Contract or in contemplation thereof, Underwriter may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Underwriter agrees that all information disclosed by City to Underwriter shall be held in confidence and used only in performance of the Purchase Contract. Underwriter shall exercise the same standard of care to protect such information as a reasonably prudent Underwriter would use to protect its own proprietary data.

(c) *Ownership of Results.* Any interest of Underwriter or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Underwriter or its Subcontractors in connection with services to be performed under this Purchase Contract, shall become the property of and will be transmitted to City. However, Underwriter may retain and use copies for reference and as documentation of its experience and capabilities.

(d) *Works for Hire.* If, in connection with services performed under this Purchase Contract, Underwriter or its Subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in



such works are the property of the City. If it is ever determined that any works created by Underwriter or its Subcontractors under this Purchase Contract are not works for hire under U.S. law, Underwriter hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Underwriter may retain and use copies of such works for reference and as documentation of its experience and capabilities.

(e) *Audit and Inspection of Records.* Underwriter agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Purchase Contract. Underwriter will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Purchase Contract, whether funded in whole or in part under this Purchase Contract. Underwriter shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Purchase Contract or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Purchase Contract shall have the same rights conferred upon City by this Section.

(f) *Subcontracting.* Underwriter is prohibited from subcontracting this Purchase Contract or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Purchase Contract, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

(g) *Assignment.* The services to be performed by Underwriter are personal in character and neither this Purchase Contract nor any duties or obligations hereunder may be assigned or delegated by the Underwriter unless first approved by City by written instrument executed and approved in the same manner as this Purchase Contract.

(h) *Non-Waiver of Rights.* The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

(i) *Earned Income Credit (EIC) Forms.* Administrative Code section 120 requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Underwriter shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Purchase Contract becomes effective (unless Underwriter has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Underwriter; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Purchase Contract. Failure to comply with any requirement contained in





subparagraph (a) of this Section shall constitute a material breach by Underwriter of the terms of this Purchase Contract. If, within thirty days after Underwriter receives written notice of such a breach, Underwriter fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Underwriter fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Purchase Contract or under applicable law. Any Subcontract entered into by Underwriter shall require the Subcontractor to comply, as to the Subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this Section and not defined in this Purchase Contract shall have the meanings assigned to such terms in Section 120 of the San Francisco Administrative Code.

(j) *Local Business Enterprise Utilization; Liquidated Damages*

i. **The LBE Ordinance.** Underwriter, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Underwriter's obligations or liabilities, or materially diminish Underwriter's rights, under this Purchase Contract. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Purchase Contract as though fully set forth in this section. Underwriter's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Underwriter's obligations under this Purchase Contract and shall entitle City, subject to any applicable notice and cure provisions set forth in this Purchase Contract, to exercise any of the remedies provided for under this Purchase Contract, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Purchase Contract expressly provides that any remedy is exclusive. In addition, Underwriter shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

ii. **Compliance and Enforcement.** If Underwriter willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Purchase Contract pertaining to LBE participation, Underwriter shall be liable for liquidated damages in an amount equal to Underwriter's net profit on this Purchase Contract, or 10% of the total amount of this Purchase Contract, or \$1,000, whichever is greatest. The Director of the City's Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Underwriter authorized in the LBE Ordinance, including declaring the Underwriter to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Underwriter's LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17. By entering into this Purchase Contract, Underwriter acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Underwriter further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Underwriter on any contract with City. Underwriter agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years



following termination or expiration of this Purchase Contract, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

(k) *Nondiscrimination; Penalties*

i. **Underwriter Shall Not Discriminate.** In the performance of this Purchase Contract, Underwriter agrees not to discriminate against any employee, City and County employee working with such Underwriter or Subcontractor, applicant for employment with such Underwriter or Subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

ii. **Subcontracts.** Underwriter shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all Subcontractors to comply with such provisions. Underwriter's failure to comply with the obligations in this subsection shall constitute a material breach of this Purchase Contract.

iii. **Nondiscrimination in Benefits.** Underwriter does not as of the date of this Purchase Contract and will not during the term of this Purchase Contract, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

iv. **Condition to Contract.** As a condition to this Purchase Contract, Underwriter shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

v. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Purchase Contract as though fully set forth herein. Underwriter shall comply fully with and be bound by all of the provisions that apply to this Purchase Contract under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Underwriter understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each



person for each calendar day during which such person was discriminated against in violation of the provisions of this Purchase Contract may be assessed against Underwriter and/or deducted from any payments due Underwriter.

(l) *MacBride Principles—Northern Ireland.* Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Underwriter acknowledges and agrees that he or she has read and understood this section.

(m) *Tropical Hardwood and Virgin Redwood Ban.* Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges Underwriters not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

(n) *Drug-Free Workplace Policy.* Underwriter acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Underwriter agrees that any violation of this prohibition by Underwriter, its employees, agents or assigns will be deemed a material breach of this Purchase Contract.

(o) *Resource Conservation.* Chapter 5 of the San Francisco Environment Code ("Resource Conservation") is incorporated herein by reference. Failure by Underwriter to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

(p) *Compliance with Americans with Disabilities Act.* Underwriter acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a Underwriter, must be accessible to the disabled public. Underwriter shall provide the services specified in this Purchase Contract in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Underwriter agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Purchase Contract and further agrees that any violation of this prohibition on the part of Underwriter, its employees, agents or assigns will constitute a material breach of this Purchase Contract.

(q) *Sunshine Ordinance.* In accordance with San Francisco Administrative Code §67.24(e), contracts, Underwriters' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is



awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

(r) *Public Access to Meetings and Records.* If the Underwriter receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Underwriter shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Purchase Contract, the Underwriter agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Underwriter further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Underwriter acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Purchase Contract. The Underwriter further acknowledges that such material breach of the Purchase Contract shall be grounds for the City to terminate and/or not renew the Purchase Contract, partially or in its entirety.

(s) *Limitations on Contributions.* Through execution of this Purchase Contract, Underwriter acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Underwriter acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Underwriter further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Underwriter's board of directors; Underwriter's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Underwriter; any Subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Underwriter. Additionally, Underwriter acknowledges that Underwriter must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Underwriter further agrees to provide to City the names of each person, entity or committee described above.

(t) *Requiring Minimum Compensation for Covered Employees*

i. Underwriter agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Purchase Contract as though fully set forth. The text of the





MCO is available on the web at [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco). A partial listing of some of Underwriter's obligations under the MCO is set forth in this Section. Underwriter is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

*ii.* The MCO requires Underwriter to pay Underwriter's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Underwriter is obligated to keep informed of the then-current requirements. Any subcontract entered into by Underwriter shall require the Subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Underwriter's obligation to ensure that any Subcontractors of any tier under this Purchase Contract comply with the requirements of the MCO. If any Subcontractor under this Purchase Contract fails to comply, City may pursue any of the remedies set forth in this Section against Underwriter.

*iii.* Underwriter shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

*iv.* Underwriter shall maintain employee and payroll records as required by the MCO. If Underwriter fails to do so, it shall be presumed that the Underwriter paid no more than the minimum wage required under State law.

*v.* The City is authorized to inspect Underwriter's job sites and conduct interviews with employees and conduct audits of Underwriter.

*vi.* Underwriter's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Purchase Contract. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Underwriter fails to comply with these requirements. Underwriter agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Underwriter's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

*vii.* Underwriter understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Purchase Contract for violating the MCO, Underwriter fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Underwriter fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those



set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

viii. Underwriter represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

ix. If Underwriter is exempt from the MCO when this Purchase Contract is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Underwriter later enters into an agreement or agreements that cause Underwriter to exceed that amount in a fiscal year, Underwriter shall thereafter be required to comply with the MCO under this Purchase Contract. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Underwriter and this department to exceed \$25,000 in the fiscal year.

(u) *Requiring Health Benefits for Covered Employees*

Underwriter agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Purchase Contract as though fully set forth herein. The text of the HCAO is available on the web at [www.sfgov.org/olse](http://www.sfgov.org/olse). Capitalized terms used in this Section and not defined in this Purchase Contract shall have the meanings assigned to such terms in Chapter 12Q.

i. For each Covered Employee, Underwriter shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Underwriter chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

ii. Notwithstanding the above, if the Underwriter is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

iii. Underwriter's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Underwriter if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Purchase Contract for violating the HCAO, Underwriter fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Underwriter fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

iv. Any Subcontract entered into by Underwriter shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Underwriter shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of



Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Underwriter shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Underwriter based on the Subcontractor's failure to comply, provided that City has first provided Underwriter with notice and an opportunity to obtain a cure of the violation.

v. Underwriter shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Underwriter's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

vi. Underwriter represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

vii. Underwriter shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

viii. Underwriter shall keep itself informed of the current requirements of the HCAO.

ix. Underwriter shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

x. Underwriter shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

xi. Underwriter shall allow City to inspect Underwriter's job sites and have access to Underwriter's employees in order to monitor and determine compliance with HCAO.

xii. City may conduct random audits of Underwriter to ascertain its compliance with HCAO. Underwriter agrees to cooperate with City when it conducts such audits.

xiii. If Underwriter is exempt from the HCAO when this Purchase Contract is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Underwriter later enters into an agreement or agreements that cause Underwriter's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Underwriter and the City to be equal to or greater than \$75,000 in the fiscal year.

(v) *Prohibition on Political Activity with City Funds.* In accordance with San Francisco Administrative Code Chapter 12.G, Underwriter may not participate in, support, or



attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Purchase Contract. Underwriter agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Underwriter violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Purchase Contract, and (ii) prohibit Underwriter from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Underwriter's use of profit as a violation of this section.

(w) *Preservative-treated Wood Containing Arsenic.* Underwriter may not purchase preservative-treated wood products containing arsenic in the performance of this Purchase Contract unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Underwriter may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Underwriter from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

(x) *Compliance with Laws.* Underwriter shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Purchase Contract, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

(y) *Protection of Private Information.* Underwriter has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Underwriter agrees that any failure of Contactor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Underwriter pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Underwriter.

(z) *Graffiti Removal.* Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in





additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Underwriter shall remove all graffiti from any real property owned or leased by Underwriter in the City and County of San Francisco within forty eight (48) hours of the earlier of Underwriter's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Underwriter to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Underwriter to comply with this section of this Purchase Contract shall constitute an Event of Default of this Purchase Contract.

(aa) *Food Service Waste Reduction Requirements.* Effective June 1, 2007, Underwriter agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Purchase Contract as though fully set forth. This provision is a material term of this Purchase Contract. By entering into this Purchase Contract, Underwriter agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Underwriter agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Purchase Contract was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Underwriter's failure to comply with this provision.

(bb) *Cooperative Drafting.* This Purchase Contract has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Purchase Contract reviewed and revised by legal counsel. No party shall be considered the drafter of this Purchase Contract, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Purchase Contract.



*Section 12. Notices.* Any notice or other communication to be given under this Purchase Contract to the Commission or the Underwriter may be given by delivering the same in writing at the addresses set forth below:

If to the Commission:

Port Commission of the City and  
County of San Francisco  
Port of San Francisco, Pier 1  
San Francisco, California 94111  
Attention: Executive Director  
Telephone: (415) 274-0400  
Fax: (415) 274-0412

With a copy to:

City and County of San Francisco  
Office of Public Finance  
City Hall, Room 336  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102  
Telephone: (415) 554-5956  
Fax: (415) 554-4864

If to the Underwriter:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention:  
Telephone:  
Fax:

*Section 13. Entire Agreement.* This Purchase Contract, when accepted by the Commission, shall constitute the entire agreement between the Commission and the Underwriter and is made solely for the benefit of the Commission and the Underwriter (including the successors or assigns of the Underwriter with the consent of the Commission) and no other person shall acquire or have any right hereunder by virtue hereof. All of the Commission's representations, warranties and agreements in this Purchase Contract shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Underwriter, (b) delivery of and payment for the Bonds hereunder, and (c) any termination of this Purchase Contract.

*Section 14. Counterparts.* This Purchase Contract may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. This



Purchase Contract may be signed in counterparts, and upon delivery to the other party of such signed Purchase Contract, which delivery may be by facsimile transmission, shall constitute the binding agreement of each party to this Purchase Contract.

*Section 15. Mutual Reliance on Representations and Warranties.* The Commission hereby acknowledges that the Underwriter, in executing this Purchase Contract and in paying for the Bonds as provided herein, are relying upon the representations and warranties of the Commission set forth herein. The Underwriter hereby acknowledge that the Commission, in executing this Purchase Contract and issuing the Bonds described herein, is relying upon the representations and warranties of the Underwriter set forth herein.

*Section 16. Severability.* In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity; illegality or unenforceability shall not affect any other provision hereof, but this Purchase Contract shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

*Section 17. State of California Law Governs.* The validity, interpretation and performance of this Purchase Contract shall be governed by the laws of the State of California. This Purchase Contract shall be enforceable in the State of California, and any action arising out of this Purchase Contract shall be filed with and maintained in City and County of San Francisco Superior Court, San Francisco, California; provided, that the Commission may waive the requirement of venue.



*Section 18. Limited Liability.* The obligations and liabilities of the Commission hereunder are limited obligations of the Commission payable solely from Revenues as defined and set forth in the Indenture. None of the Commissioners, the officers or employees of the Commission, or any person executing this Purchase Contract shall be liable personally for the obligations of the Commission hereunder or be subject to any personal liability or accountability by reason of the execution hereof. Neither of the faith and credit nor the taxing power of the State or any political subdivision thereof, including the City, is pledged to the obligations of the Commission hereunder.

Very truly yours,

\_\_\_\_\_  
as Underwriter

By: \_\_\_\_\_  
Authorized Officer

Accepted as of the date first stated above:

PORT COMMISSION OF THE CITY AND  
COUNTY OF SAN FRANCISCO

By: \_\_\_\_\_  
Executive Director

Approved as to Form:

DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
Deputy City Attorney





**SCHEDULE I**  
**TO THE PURCHASE CONTRACT**

**MATURITY SCHEDULE**

\$ \_\_\_\_\_  
Series 2014A  
(AMT)

<u>MATURITY</u> <u>(DECEMBER 1)</u>	<u>PRINCIPAL</u> <u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>	<u>YIELD</u>	<u>PRICE</u>	<u>CUSIP</u> <u>(BASE NO. _____)</u>
--	-----------------------------------	--------------------------------	--------------	--------------	---

\$ \_\_\_\_\_  
Series 2014B  
(Taxable)

<u>MATURITY</u> <u>(DECEMBER 1)</u>	<u>PRINCIPAL</u> <u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>	<u>YIELD</u>	<u>PRICE</u>	<u>CUSIP</u> <u>(BASE NO. _____)</u>
--	-----------------------------------	--------------------------------	--------------	--------------	---



EXHIBIT A

FORM OF TRUSTEE'S COUNSEL OPINION

\_\_\_\_\_  
San Francisco, California

Port Commission of the City and County of San Francisco  
San Francisco, California

\$ \_\_\_\_\_  
Port Commission of the City and County of  
San Francisco  
Revenue Bonds  
Series 2014A  
(AMT)

\$ \_\_\_\_\_  
Port Commission of the City and County of  
San Francisco  
Revenue Bonds  
Series 2014B  
(Taxable)

Ladies and Gentlemen:

We have acted as special counsel to U.S. Bank National Association, as trustee (the "Trustee"), in connection with the execution and delivery of \$\_\_\_\_\_ aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds Series 2014A (AMT) and of \$\_\_\_\_\_ aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds Series 2014B (Taxable) (together, the "Bonds"), issued pursuant to the Indenture dated as of February 1, 2010, by and between the Port Commission of the City and County of San Francisco (the "Commission") and the Trustee, as amended and supplemented by the First Supplement to Indenture of Trust dated as of February 1, 2010, and by the Second Supplement to Indenture of Trust dated as of \_\_\_\_\_ 1, 2014, each by and between the Commission and the Trustee (collectively, the "Indenture"). This opinion is delivered to you pursuant to Section 8(e)(8) of the Bond Purchase Contract dated \_\_\_\_\_, 2014, by and among the Commission City, the Corporation and Jefferies & Company, Inc., as underwriter.

As such counsel, we have examined among other things, the Indenture, the Articles of Association and Bylaws of the Trustee, and such matters of fact and questions of law as we have considered appropriate for purposes of this opinion letter.

As to facts material to the opinions, statements and assumptions expressed herein, we have, with your consent, relied upon oral or written statements and representations of officers and other representatives of the Trustee and others and other sources believed by us to be reliable, and have not undertaken to independently verify the accuracy of factual matters represented or certified in such documents and statements. In rendering our opinions, we have assumed the genuineness of all signatures on original or certified copies, the authenticity of



documents, certificates and records submitted to us as originals, the conformity to original or certified copies of all copies submitted to us as certified or reproduction copies, the legal capacity of all natural persons executing documents, certificates and records, and the completeness and accuracy as of the date of this opinion letter of the information contained in such documents, certificates and records.

We are opining herein as to the effect on the subject transaction only of the federal laws of the United States and the internal laws of the State of California, and we express no opinion with respect to the applicability thereto, or the effect thereon, of the laws of any other jurisdiction or as to any matters of municipal law or the laws of any local agencies within any state.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

(1) The Trustee is a national banking association duly organized and existing under the laws of the United States of America.

(2) The Trustee has duly authorized, executed and delivered the Indenture and, assuming due authorization, execution and delivery by the other parties thereto, the Indenture constitutes the legal, valid and binding obligation of the Trustee, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent conveyance, and other similar laws affecting the rights and remedies of creditors generally, and by the effect of general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance or injunctive relief, whether considered in a proceeding at law or in equity.

(3) The Bonds have been duly authenticated by the Trustee.

(4) To our knowledge, exclusive of federal or state securities laws and regulations, other than routine filings required to be made with governmental agencies in order to preserve the Trustee's authority to perform trust services (all of which routine filings have to our knowledge been made), no consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee is or will be required for the execution and delivery by the Trustee of the Indenture.

This letter is issued to and for the sole benefit of the above addressee and is issued for the sole purpose of the transaction specifically referred to herein. No person other than the above addressee may rely upon this letter without our express prior written consent. This letter may not be utilized by you for any other purpose whatsoever and may not be quoted by you without our express prior written consent. We assume no obligation to review or supplement this letter subsequent to its date, whether by reason of a change in the current laws, by legislative or regulatory action, by judicial decision or for any other reason.

Very truly yours,









# CITY & COUNTY OF SAN FRANCISCO

## PORT COMMISSION

### MINUTES OF THE SPECIAL MEETING DECEMBER 12, 2013

GOVERNMENT  
DOCUMENTS DEPT

DEC - 4 2014

SAN FRANCISCO  
PUBLIC LIBRARY

#### 1. CALL TO ORDER / ROLL CALL

Port Commission President Doreen Woo Ho called the meeting to order at 2:20 p.m. The following Commissioners were present: Doreen Woo Ho, Kimberly Brandon, Willie Adams, and Mel Murphy. Commissioner Katz arrived at 2:27 p.m.

#### 2. APPROVAL OF MINUTES – November 12, 2013

ACTION: Commissioner Brandon moved approval; Commissioner Adams seconded the motion. All of the Commissioners were in favor. The minutes of the November 12, 2013 meeting were adopted.

#### 3. PLEDGE OF ALLEGIANCE

#### 4. ANNOUNCEMENTS: The Port Commission Secretary announced the following:

- A. Announcement of Prohibition of Sound Producing Electronic Devices during the Meeting: Please be advised that the ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing of or use of a cell phone, pager, or other similar sound-producing electronic device.
- B. Announcement of Time Allotment for Public Comments: Please be advised that a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

#### 5. PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA

#### 6. EXECUTIVE

##### A. Executive Director's Report

- U.S.S. Pampanito 70<sup>th</sup> Birthday – November 1943 to November 2013
- SS Jeremiah O'Brien's 70<sup>th</sup> Birthday – November 1943 to November 2013

Monique Moyer - Neither of the representatives to be recognized are here yet. If you don't, commissioners, I'd like to put that over. It's entirely possible

that they were working off of our normal time of 3:15. I'm not sure when they might arrive so, we'll do our best.

- Pier 92 Grain Silo Public Art Project

On Thanksgiving day, the first phase of the Pier 92 grain silo project was completed i.e. the mural portion known as "Bayview Rise." The painting is all done despite the rain. The second phase is underway, which is the installation of the LED lighting. Weather permitting that should be done by the end of the year, which would be very exciting. We're hoping for a ribbon-cutting celebration in early January. We've gotten a lot of feedback from people who have been watching it go up and they are very excited about it.

Thanks to David Beaupre, who helped lead all this, the Arts Commission, and the Port Commissioners. Several of you have given a number of your hours, and even sat on the selection panel. It was a very good and complete process, and we're really excited to see something coming from that. There will be more to follow on the ribbon-cutting, but look for that in early January.

- Pier 43 Arch Reopening

We have also been able to reopen the Pier 43 Arch up in Fisherman's Wharf. It has been many years since that area has been open to the public because of the disrepair. The Pier 43 Arch was built in 1914, and it was built as a gateway for the Belt Railroad. It was a car ferry slip. A barge would pull up alongside the Arch. The barge would be filled with cars, and then the cars would be taken over to the rail lines, either in Sausalito or in Richmond. It was a really important piece of our history. It's a really cool building. The mechanism for the dock was raised or lowered by hand according to the tide. It's a very old piece of our history, and one that we prize very much. Our port maintenance staff had been able to complete substructure repairs, making it a little safer, install new handrails, and repaint the car ferry head house, which is known as the Arch. We're very proud of them for doing that. You may recall that in 1998, there was a major fire there. In 2002, the Arch was refurbished, but the structure still remained in disrepair. These last pieces of repair complete the Pier 43½ Promenade project, and open that area up. The views there, of course, are terrific of Fisherman's Wharf, but also of Alcatraz and the bay lights and the Bay Bridge. It's a great place to enjoy the bay. I'm indebted to our engineering and maintenance staff for being able to take that work on in-house. I encourage everyone to go down and have some holiday crab and enjoy the Ferry Arch out there and the great sights while we can. It's a big accomplishment for us.

- Schedule of Port Commission Meetings for 2014 attached hereto

In the Commissioners packets and for the public, out on the table, is the schedule of Port Commission meetings for 2014. As you recall, we have one

meeting in January, two meetings, February, March, April, and May on the 2nd and 4th, Tuesdays, one meeting each in June, July, and August, two meetings in September and October. Then in November and December of 2014, we're proposing special meetings on November 18th and December 16th. With a little fore-planning, we'll be able to have special meetings instead of our regular meetings. This does need any action by you, just a notice for you and the public.

- Nelson Mandela

I recommend that we adjourn our meeting in memory of Nelson Mandela. Mr. Mandela was born in July of 1918 and passed away on December 5, 2013, at the age of 95 years old. He served as a politician, a revolutionary, a philanthropist, and most importantly, as president of South Africa from 1994 to 1999. He was South Africa's first Black chief executive, and the first elected in democratic elections. That's beyond impressive.

During his administration, he focused on dismantling the legacy of apartheid. He tackled racism, poverty, and inequality, and fostered racial reconciliation. He participated in reconciliations not just in his home country, but around the world. Something that does not get a lot of notice is his role between Libya and the United Kingdom when the Pan-Am Flight 103 bombing trial ensued. He was a participant in trying to move that forward.

Mr. Mandela received over 250 honors, including the 1993 Nobel Peace Prize, the US Presidential Medal of Freedom, the Soviet Union Order of Lenin, and the Bharat Ratna. He's an icon, and his legacy has helped all of us in San Francisco as well, including the Port's waterfront. With the Commissioners' permission, I would like to adjourn the meeting in his memory.

Commissioner Adams - I'd like to speak about Nelson Mandela. Our union, the International Longshoremen and Warehouse Union, were the only union in 1984 that took direct action and spoke out against apartheid. It was very bold, and we had the guts of a gunslinger's and we spoke out.

Actually, there was a ship here in San Francisco at Pier 80 that was from South Africa. Our union refused to load or unload that ship. When Mandela got out of prison, he spoke at the Oakland Coliseum and he said, "I want to thank Harry Bridges and the ILWU."

This year, the ambassador of South Africa came to San Francisco and came to Local 10 and he honored Local 10 in the ILWU with the Nelson Mandela Humanitarian Award. When I was thinking of Nelson Mandela and his impact, I was thinking of this young guy that was a farmer but I think everybody can learn something.

There were over 90 worldwide leaders at his funeral. There were leaders that didn't even speak to each other that showed up. President Obama shook hands with the president of Cuba and there was a lot of controversy. But one thing about Mandela, he had the ability to negotiate.

One thing about arrogance -- arrogance, I believe, is the downfall of any individual. Mandela was humble. People looked up to Nelson Mandela. In every city throughout this country, even in Washington, DC, they can learn from Mandela. People that are on opposite sides can learn to work together and find a common cause. He was able to do that, and that's a rare ability. You can't go to Macy's or Nordstrom's to buy that. Certain people have that talent to negotiate. Our union, the ILWU, before a lot of civil rights leaders, Martin Luther King, the Kennedys came along, we integrated our union in 1934.

We had a president by the name of Harry Bridges who basically had the same line of Nelson Mandela. He could look beyond color. He could look beyond creed. He could even look at people that he didn't agree with to find a happy medium. I'm hoping, especially for our politicians in DC, that they can learn to work together, not for political parties, but for the common good of people.

That's the one thing that Mandela did. They always said, "Your best report card is when you die, and the people that show up," because there's a lot of people that died, they might have millions of dollars, but they weren't good people, and nobody showed up. But to pay respect to this man who's just a humble man, millions of people on this planet saw and looked into this man's heart.

I needed to say that on behalf of my union. I'm very proud of people like Nelson Mandela and that rare ability that he had. I wish more of us had it.

- Report on Osaka Sister Port Conference – November 12-14, 2013

As you recall, Commissioner Leslie Katz, myself, and our cargo marketing director, Jim Maloney, went and attended the sister port conference. The Port of San Francisco is sisters with a number of ports around the world. We happen to have our longest sister port relationship with the Port of Osaka in Japan. This year, it was Osaka's turn to host. They were originally supposed to host a couple of years ago, but they had the tsunami event, and so they asked if they could postpone. The meeting was postponed until this past November.

In addition to Osaka and San Francisco, representatives from the Port of Shanghai, the Port of Saigon, the Port of Valparaiso, the Port of Le Havre, the Port of Melbourne and the Port of Busan were in attendance. It was a very good group of different ports. We had great discussions, which Commissioner Katz will elaborate on.

We also had a chance to talk with the Japanese about how they're responding to the impacts of tsunamis and dealing with what they call their "tidal walls." We call it a seawall. Ours are more submerged. Theirs are above ground as six-foot-high tidal walls. It was a very educational trip. We had some good visits with customers as well.

Commissioner Katz - As Executive Director Moyer said, there are a number of different ports that were represented at the 15th "Sister Friendships Port Conference." Not only were our hosts from Osaka extraordinarily gracious, but very informative as well. They put together an outstanding program in terms of having all of the sister ports do presentations and it was interesting.

One of the things that except for Le Havre, all of the other sister ports were around what's called the Ring of Fire. All are dealing with many of the same problems that we do here, not only just from climate change and rising seawall, but also the instability in terms of potential earthquakes.

Certainly, Japan was more than well aware of that but it impacts virtually every other port that participated in the conference. That was a theme that ran through in terms of what kind of preparedness, training, and planning all of the ports are doing. The first day there, we had a welcome reception which was attended by consul generals from each of the representative ports.

It was a wonderful way to meet everyone and have dinner with our compatriots. What was often interesting were the translation activities where one translator would translate in one language to another translator, who would translate to the recipient. It was often an interesting way of conversing, and we all had to be mindful of literally the expanded game of telephone at times but it worked very well. They had some outstanding translators that they retained that in and of their own right were very interesting and informative.

We were also met by some of the representatives from Osaka that had participated previously in various San Francisco/Osaka sister city programs that they've now moved over to the Port of Osaka. The first presentation was from the Port of Osaka to lead off the conference. That was our first full day.

One of the things that was being undertaken by Osaka that we all found very interesting, not necessarily something that we could do directly in San Francisco or in the Bay Area, but they have taken an approach where they're merging or combining several of the ports in the area together to become that much more competitive and rely on each other's strengths. So much as we recognize some of the strengths in the Port of Oakland and they recognize our different strengths here, similarly, the Port of Osaka and the Port of Kobe have now combined efforts to try and expand their reach. They're now calling it the Hanshin Port. Le Havre has very different issues perhaps than we do and we were all trying to talk them into hosting a conference there shortly in Paris.

It was agreed that the next conference will be held in Shanghai, which is also, as many of you know, San Francisco's sister city. The work that they're doing there is extraordinary. Commissioner Adams has spent some time at the Port of Shanghai and is seeing the extraordinarily work that they're doing there.

I think one of the things that everybody was very interested in were obviously our break bulk. We emphasized our work there, but also the varied activities that we're having along our port. Then coming on the heels of the America's Cup, our compatriots in Melbourne were particularly interested in that but they were very interested to see the varied ways that we approach activities along our port, and how our revenue stream has been faring with the different activities. Osaka has tried to have some other kind of activities along their port.

One day they took us to a new and just extraordinary aquarium that they've built which is the fourth or fifth largest in the world. It was really spectacular. One of the things that was interesting was it was based on this sort of Ring of Fire approach or mentality. It mirrored all of the sister ports.

Following our time in Osaka, we went back up to Tokyo and met some of our customers. First we met with some representatives from Saga. Thanks to Commissioner Adams, we were able to meet with representatives from the American Embassy there, which happened to be the day that the new ambassador to Japan was arriving, although she was arriving as we were meeting.

The attaché came in rather harried after having met her at the airport. We met with different aspects of the embassy's work there, from agriculture to shipping to tourism, and let them know what's happening in San Francisco. They're very excited about helping work with us, and serving as liaisons to what's happening in Japan and vice versa. Then we went to Seoul and met with additional customers there. We met with Hyundai and told them about all of our activities and the extent of our break bulk services and what's happening with our trains.

We filled both Saga and Hyundai in on the incredible amount of construction that's happening here in the Bay Area, and why it really is in everyone's interest for them to take a long, hard look at working closely with the Port of San Francisco, with the construction at Apple and their new facility, as well as what's happening around the Transbay Terminal and a variety of other things. They're very intrigued and they're excited. We've now established an even stronger relationship where we provide them with updates and vice versa on opportunities to work together. Jim Maloney stayed on and met with some additional clients.



It was an extremely informative time as well as very productive in cementing further relationships with many of our key customers in the Pacific Rim.

Commissioner Woo Ho - Thank you very much for that very informative report, and for helping to forge more of our relationships. We look forward to some of the other ports that we do visit. Some of these trips have been very helpful. I can recall the trip that Monique and I went to New Zealand. That trip was actually fortuitous because then New Zealand came here for the America's Cup, and that really was leverage. I have seen the Pier 92 artwork from the freeway. It's very visible and it's beautiful. It's something we hope to see more of. From what David Beaupre told us many months ago, it stands out and you can see it from afar. It's a beautiful piece of artwork, and I want to commend everybody that was involved in getting it up and running so it's actually now a reality. Thank you to all.

Commissioner Katz - With respect to the installation and this has been said repeatedly but having been lucky enough to participate in the selection panel, the quality of the artists that came forward was really extraordinary. The group that was selected, one of the things that was so impressive about them was their working so closely with the community, and recognizing what an important installation this is for the community and incorporating that in their art. I appreciate the effort that everyone took to include that in the RFP and making that such an important point, that this is really a gateway to a community, and it was important that the artist recognized that. We were lucky enough to have a team come forward that did that in so many ways.

## 7. CONSENT

- A. Request authorization to advertise for competitive bids for Construction Contract No. 2758, Bayview Gateway and Tulare Park Project located in the Southern Waterfront along the Islais Creek Channel between 3<sup>rd</sup> Street and Illinois Street. (Resolution No. 13-48)
- B. Request approval of the Operations Agreement with Expeditors International of Washington, Inc. ("Expeditors") granting Expeditors authority to operate its site in Brisbane, California as a Foreign Trade Zone No. 3 usage-driven site for a term of five years, with one option to extend for four years and outlining conditions for the operation of the usage-driven site. (Resolution No. 13-49)
- C. Request authorization from the Port Commission to: (1) file with the California Building Standards Commission, the Port's amendments to the 2013 California Building Standards Code and the local findings that support such modifications; (2) repeal the existing June 14, 2011 edition of the 2010 Port of San Francisco Building Code (including Green Building Standards), 2010 Port of San Francisco Mechanical Code, 2010 Port of San Francisco Electrical Code, 2010 Port of San Francisco Plumbing Code, effective midnight, December 31, 2013; and (3) adopt the 2013 Port of San Francisco Building Standards Code (which includes the 2013 Port of San Francisco Building, Mechanical, Electrical, Plumbing, and

Green Building Standards Codes), with an effective date of January 1, 2014.  
(Resolution No. 13-50)

ACTION: Commissioner Brandon moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution Nos. 13, 48, 13-49 and 13-50 were adopted.

## 8. PLANNING AND DEVELOPMENT

- A. Request approval to award the development opportunity described in the Request for Proposals for the Pier 38 Bulkhead Building Rehabilitation Project to TMG Pier 38 Partners, LLC and authorize staff to initiate lease negotiations for the bulkhead building rehabilitation project at Pier 38, located at Delancey Street and The Embarcadero. (Resolution No. 13-51)

John Doll, Planning & Development Division - In September 2012, the Port Commission provided direction to staff to issue an RFP to renovate and to retenant the Pier 38 Bulkhead Building with the objective to quickly get this port asset back into productive use and provide an ongoing revenue stream to the port. The bulkhead building is defined as the historic bulkhead along the Embarcadero, as well as a limited portion of the pier shed. This is represented graphically on Attachments 3 and 4 of the staff report. Staff issued an RFP for the bulkhead building rehabilitation in November 2012, and received two submittals in March 2013, San Francisco Waterfront Partners and TMG Pier 38 Partners.

Staff also engaged BAE, a local real estate consulting firm, to analyze the proposals on the Port's behalf. Their analysis is shown as Attachment 6 of the staff report. Staff also formed an evaluation panel that included a South Beach community member, as well as those having expertise in real estate and development project management to score the two proposals.

In June 2012, the evaluation panel reviewed the BAE analysis of the submittals, scored the written proposals, and scored the interviews with each of the developers. The scoring of the proposals is shown as Table 2 in the staff report. The evaluation panel scored TMG as the highest-ranked respondent to the RFP.

Based on the BAE consultant analysis evaluation scoring, Port staff has reached these conclusions. One, with respect to developer qualifications, both respondents to the RFP are qualified to undertake the Pier 38 Bulkhead Building Project. Both respondents developed successful waterfront and/or historic projects in San Francisco. Overall, staff believes that based on its breadth of project development, leasing experience, and project staff composition and capacity, TMG is more qualified to undertake the bulkhead project.

Two, with regards to the development program, both proposals met the design, construction, and tenant program criteria cited in the RFP. San Francisco Waterfront Partners proposes to make more substantial improvements to the



bulkhead building and slightly more public access, totaling an investment of approximately \$10.6 million. TMG proposes slightly less substantial improvements, totaling an investment of \$6.9 million.

Three, financial capability and terms -- both respondents have demonstrated that they have sufficient financial resources and ability to undertake the bulkhead building project. With regards to rent payments to the port, TMG proposes net annual revenue of approximately \$150,000 per year to the Port. TMG's approach employs a lighter touch by investing less into the bulkhead building while meeting the development program's requirements. This allows TMG to pay significantly higher rent than San Francisco Waterfront Partners.

Four, relationship of the bulkhead building improvements to the long-term Pier 38 redevelopment -- the intent of the RFP was to solicit a developer to rehabilitate and re-tenant the Pier 38 bulkhead building only to get the bulkhead building back into productive use and generate revenue to the Port, but also to ensure that the bulkhead building would not hinder possible subsequent redevelopment of the entire Pier 38. TMG's approach to this was to reduce the cost of the bulkhead building by deferring some improvements until later.

This allows TMG to pay higher rent, but it also provides greater flexibility for potential future reuse. Although not part of the RFP, staff did direct BAE, our consultant, to prepare a financial feasibility study for a theoretical total redevelopment of Pier 38. Their analysis is shown as Attachment 7.

Generally speaking, BAE's preliminary analysis shows that a future total redevelopment of Pier 38 may be theoretically possible. If the Port Commission were to direct staff to initiate a total redevelopment of Pier 38, it would have to comply with the planning procedures identified in the Waterfront Land Use Plan. Namely, that would be a process to ensure a consultation with appropriate regulatory agencies, and convene a local community advisory group to provide input and guidance on a development concept for an entire Pier 38 redevelopment. This item refers only to the Bulkhead Building Project, and defers action on possible total redevelopment of Pier 38, if at all.

For the project at hand, staff believe that TMG's approach better reflects the goals and objectives as articulated in the RFP, particularly with respect to quickly re-tenanting the bulkhead building and providing higher revenue to the Port.

In conclusion, Port staff concurs with the evaluation panel's scoring, and recommends that the Port Commission award the bulkhead rehabilitation development opportunity, as described in the RFP, to TMG. Staff further recommends that the Commission authorize staff to initiate lease negotiations with TMG for the Bulkhead Building Project.

Once lease negotiations are completed, the terms of the proposed lease will be presented to the Port Commission for your review and consideration. TMG

principals are here - Mike Covarrubias, Matt Field, and Amy Neches. They would love to make a presentation or a statement if you so desire.

Also, BAE staff should be here to address questions with regards to their work of either the analysis of the two proposals or the potential future redevelopment of Pier 38.

Corinne Woods - These had to have been a very tough decision for the Port, two extremely well-qualified companies, both of whom have relationships with the Port, both of whom have done excellent work in the past. Of course, the money counts. I've worked with Amy Neches for many years on redevelopment projects. I know that she is totally competent, ethical, straightforward, not diplomatic sometimes but you've got a good team, and I support your decision..

John Caine, owner and operator of Hi Dive Restaurant at Pier 28½ - I've been a Port tenant for 12 years. I know the South Beach waterfront very well. We're located just north of Pier 38 along with Red's Java House. We'll be the Port restaurant closest to Pier 38. I'm very much in favor of the redevelopment of Pier 38. More activity is always an attraction, especially on game days. On non-game days, getting tenants back in the building will be great. I strongly recommend your selection of Pier 38 TMG Partners and Premier Structures. Premier knows the waterfront and knows how to do things the right way. They help us at Hi Dive with our BCDC permits because that can be very confusing. They and TMG are the perfect developer for Pier 38.

Commissioner Brandon - I would like to say that Corrine is right. This was a very hard decision. We did have two very well-qualified, good proposals. This was an extremely hard decision. I'm happy that we have been able to choose someone that will be able to complete the development as soon as possible to get the building re-tenanted. I look forward to the revenues it will generate for the Port, and finding out what we're going to do long-term. Since right now we are only doing the bulkhead, what is the proposal for the long-term development?

John Doll - This item is only for the bulkhead building only. We will need to come back to the Commission with a strategy or a plan as to what the next steps might be. The first step was to have BAE provide an analysis of whether or not it was financially feasible but it was only theoretical. We would like to really work on that. If the Port Commission is interested, we would start some of the steps in terms of putting together a local community advisory group and start engaging the regulatory community to determine whether or not the remainder of the complete Pier 38 would be functionally feasible. We would have to look at State Lands, BCDC, and look at a lot of the potential constraints. We could start that process any time you direct us to. In Attachment 8, I provided a time line of what some of the steps may take in terms of doing this.

Commissioner Adams - First of all, I am really glad that the public has come out today to see how the process actually happens. This is really good because I believe that due diligence is happening. I'm going to give a shout-out to John

and his staff. They did a great job. I saw this deal as being a dead heat. Both of them were actually companies that you couldn't have lost. Both of them were at the top of their game. The transparency is there, and that's what I want the public to see. This Port belongs to you. For you being here today, I want you to see how the process really happens. John, is this just for Phase 1 and Phase 2 is something else, right?

John Doll – Correct, we'd like to call it the Bulkhead Building Project because there may not ever be a Phase 2.

Commissioner Adams - I wanted to know that because I was under the assumption this was just Phase 1, and then once we got past Phase 1, there would be a Phase 2.

Monique Moyer - Yes, you're correct. It's our hope that there's a Phase 2. One of the struggles is whether the triggering of all the code upgrades, including seismic, can be absorbed into a Phase 2 project. Both of the developers thought that it could. A lot of that conversation still needs to take place around implications of sea level rise, implications of other public benefits, BCDC, State Lands Commission, etc. We have a lot more homework to do. As staff, we would love to get some direction whether you'd like us to start working on that homework. It would certainly be our hope that there is a Phase 2 for numerous reasons, not the least of which is this is a historically registered asset, and we have an obligation to use our best efforts to preserve it.

Commissioner Woo Ho - It's fair to say that there's imperfect information to make any decision on Phase 2, on either knowing what the developer would want to do and what the Port needs and requires. It's very clear that this is only a decision for the bulkhead because we just don't have enough information. There's just no implicit assumption here either and everybody should be aware of that.

Commissioner Murphy - At what point would Phase 2 take place? There's only so many years left in the infrastructure that's there right now. If you have tenants, how are you going to deal with the tenants to do Phase 2? Do we have to have everybody move out at that point? How will it be structured in the lease?

John Doll - That will be done very carefully depending on who might do the Phase 2 development. If TMG were the Phase 2 developer, clearly it would be a lot easier to do that because they could think about that and incorporate the plans of the bulkhead building into a subsequent redevelopment project. It would be easier, but it wouldn't necessarily have to be like that. Otherwise, we'd have to put in a lease term and develop a project, maybe a new developer selection process, again subject to Commission's direction, that would eventually make sure that the Phase 1, the Bulkhead Development Project, is over, and then start over again.

Commissioner Murphy - Has anybody done an analysis of what it would cost to retrofit the whole pier?

John Doll - Yes. Some of that analysis has been provided in the BAE report in Attachment 7 of the staff report.

Commissioner Woo Ho - I think it's roughly about \$138-\$140 million.

Commissioner Murphy - The question is money. We don't have anybody to step forward and spend the money.

John Doll - Well, no. This is a theoretical study at this point but they were making assumptions as to the future market for office and restaurant retail, the constructability in terms of construction costs in the future, and the entitlement risk associated with that. There are a lot of factors that need to be delineated in terms of whether or not a future redevelopment project like this would be practical and feasible.

Monique Moyer - Commissioner, to answer your question, the long lead time is that the Waterfront Land Use Plan, which is for all intents and purposes our general plan, contemplates Pier 38 as "maritime support and a warehouse shed." To do the kind of development that could pay for some of these substructure repairs and other needs, I don't think would be storage. The long lead time is to follow the process for amending the Waterfront Land Use Plan, which includes seating a community advisory committee, having conversations with them to get to a vision, as well as with the commissioners, and then we go forward and select a developer but your point is well-taken, that already having the bulkhead occupied, we'll need to be very careful and thoughtful about how we proceed going forward. But the long lead time is the Waterfront Land Use Plan amendment.

Commissioner Woo Ho - It's based on the current proposal that TMG has put forward. My understanding is that if they were to look at Phase 2, it would disrupt what's in the bulkhead, and we'd have to revisit that. We're not addressing that issue and that's why we have imperfect information. We don't know what's going to happen. It's hard to justify. What you're hearing from the commission is their interest to pursue this further, and we are here only to look at it. I also want to thank the other bidder, who is not here today, not only just in terms of their qualifications, but the amount of work and interest they put forward. We very much respect the work that has been submitted. There are some major differences between the proposals. Before we vote and to be clear, I would like to understand, since there's such a major difference in the rental stream between the two proposals. For the Pacific Waterfront Partners proposal, the revenue is approximately \$12,631 per year. How did that get calculated? I want to make sure we understand the differences between the two proposals.

Janet Smith-Heimer, BAE managing principal - To answer your question quickly, what we did in the analysis was we took the material that we received from both

development teams initially in their written submittal. We didn't calculate the rent payments that you saw in that report. Those were actually from the two submitters. We made a few adjustments based on a few inconsistencies that we found in each submittal but we cleared them with the submitter just to make sure that we understood their submittal. You're asking, "Why are the two proposals paying different amounts more than what it is that we did?" The answer to that is that they're pretty different, as you noted. The TMG proposal, we started calling it a "lighter touch." It's less investment. The food trucks allow a kind of quick reuse at a lower cost, and generate sufficient revenue to make those payment proposals. The Waterfront Partners proposal required more investment, ended up with more of a finished product, if you will, at least on paper, some of which might need to be revisited if there's a Phase 2. Because of the higher expense, that's why there was a little bit less base rent.

Commissioner Woo Ho - It's clear that the trigger for the commencement of rent is also different between the two proposals.

Janet Smith-Heimer - Yes, there was a timing issue.

Commissioner Woo Ho - Practically speaking, is that a year difference?

Janet Smith-Heimer - If memory serves, there was about 18 months difference. The main thing was the amounts that were different.

Commissioner Woo Ho - Just so we're clear on the record, TMG would be in the space working on it for 18 months before they would start paying rent, correct?

Janet Smith-Heimer - Yes, the difference was about a year between the two of them. The net present value does affect it a little bit, but most of it was the actual revenue.

ACTION: Commissioner Brandon moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution No. 13-51 was adopted.

- B. Informational presentation on responses to the Request for Proposals for the lease of the EcoCenter at Heron's Head Park and surrounding 6,058 square feet of non-exclusive license area, located near the intersection of Jennings Street and Cargo Way.
- C. Informational presentation on the mixed-use development project for Seawall Lot 337 and Pier 48 bounded by China Basin Channel, Third Street, Mission Rock Street, and San Francisco Bay and adjacent to AT&T Park.

## 9. REAL ESTATE

- A. Request approval of Third Amendment to Lease No. L-15169 with Autodesk, Inc. a Delaware corporation ("Autodesk") for approximately 3,400 square feet of

unimproved shed space located at Pier 9, subject to approval by the Board of Supervisors. (Resolution No. 13-52)

ACTION: Commissioner Brandon moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution No. 13-52 was adopted.

#### 10. FINANCE AND ADMINISTRATION

- A. Request approval of: (1) the issuance of the Port of San Francisco's Series 2014 Revenue Bonds (the "2014 Port Revenue Bonds") to fund certain capital improvements on Port property, in the aggregate principal amount not to exceed thirty million dollars (\$30,000,000) with an interest rate not to exceed twelve percent (12%) per annum; (2) the form of the Second Supplement to Indenture of Trust, between the Port and a trustee; (3) the sale of the 2014 Bonds by negotiated sale pursuant to a bond purchase contract; (4) authority to enter into contract with the underwriter team selected by the Port's Executive Director; and (5) the form of a bond purchase contract, with a not to exceed underwriter's discount and true interest cost, between the Port and the selected underwriter team. (Resolution No. 13-53)

ACTION: Commissioner Brandon moved approval; Commissioner Murphy seconded the motion. All of the Commissioners were in favor. Resolution No. 13-53 was adopted.

#### 11. NEW BUSINESS

#### 12. ADJOURNMENT

ACTION: Commissioner Brandon moved approval to adjourn the meeting. Commissioner Katz seconded the motion. All of the Commissioners were in favor.

Commission President Doreen Woo Ho adjourned the meeting at 6:10 p.m.









